Journal of the House

State of Indiana

112th General Assembly *Second Regular Session*

Twenty-third Meeting Day **Monday Morning** **February 25, 2002**

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Reverend Robert Lee, Second Missionary Baptist Church, Kokomo, the guest of Representative Ronald D. Herrell.

The Pledge of Allegiance to the Flag was led by Representative Moses.

The Speaker ordered the roll of the House to be called:

T. Adams	Hoffman
Aguilera ⏏	Kersey
Alderman	Klinker
Atterholt	Kromkowski ⏏
Avery	Kruse
Ayres	Kruzan
Bardon	Kuzman
Bauer	Lawson
Becker	Leuck
Behning	Liggett
Bischoff	J. Lutz
Bodiker	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	McClain
C. Brown	Mock
T. Brown	Moses
Buck	Munson ⏏
Budak	Murphy
Buell	Noe
Burton	Oxley
Cheney	Pelath
Cherry	Pond
Cochran	Porter
Cook	Reske
Crawford	Richardson
Crooks	Ripley
Crosby	Robertson
Day	Ruppel ⏏
Denbo	Saunders
Dickinson	Scholer
Dillon	M. Smith
Dobis	V. Smith
Dumezich	Steele
Duncan	Stevenson
Dvorak	Stilwell
Espich	Sturtz
Foley	Summers ⏏
Frenz	Thompson
Friend	Tincher
Frizzell	Torr
Fry	Turner
GiaQuinta	Ulmer
Goodin	Weinzapfel
Grubb	Welch
Harris	Whetstone
Hasler	Wolkins
Herndon	D. Young
Herrell	Yount
Hinkle	Mr. Speaker

Roll Call 188: 95 present; 5 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 10, 30, 41, and 42 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 25, 43, and 47 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 11:35 a.m. with the Speaker in the Chair.

Representatives Aguilera, Munson, and Summers were present.

ENGROSSED SENATE BILLS ON SECOND READING

The following bills were called down by their respective sponsors, were read a second time by title, and, there being no amendments, were ordered engrossed: Engrossed Senate Bills 20, 52, 73, 77, 79, 100, 102, 104, 139, 144, 148, 152, 156, 158, 168, 180, 213, 214, 217, 225, 227, 239, 243, 263, 293, 329, 331, 341, 344, 357, 391, and 429.

Engrossed Senate Bill 1

Representative Kuzman called down Engrossed Senate Bill 1 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1–1)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-2.1-3-2, AS AMENDED BY P.L.205-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) Not later than ~~seven (7) calendar days following the first session day in~~ January **31** of each year, every member of the general assembly shall file with the principal clerk of the house or secretary of the senate, respectively, a written statement of the member's or candidate's economic interests for the preceding calendar year listing the following:

(1) The name of the member's or candidate's employer and the employer of the member's or candidate's spouse and the nature of the employer's business. The house of representatives and senate need not be listed as an employer.

(2) The name of any sole proprietorship owned or professional practice operated by the member or candidate or the member's or candidate's spouse and the nature of the business.

(3) The name of any partnership of which the member or candidate or the member's or candidate's spouse is a member and the nature of the partnership's business.

(4) The name of any corporation of which the member or candidate or the member's or candidate's spouse is an officer or director and the nature of the corporation's business. Churches need not be listed.
(5) The name of any corporation in which the member or candidate or the member's or candidate's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). No time or demand deposit in a financial institution or insurance policy need be listed.
(6) The name of any state agency or the supreme court of Indiana which licenses or regulates the following:
(A) The member's or candidate's or the member's or candidate's spouse's profession or occupation.
(B) Any proprietorship, partnership, corporation, or limited liability company listed under subdivision (2), (3), or (4) and the nature of the licensure or regulation.
The requirement to file certain reports with the secretary of state or to register with the department of state revenue as a retail merchant, manufacturer, or wholesaler shall not be considered as licensure or regulation.
(7) The name of any person whom the member or candidate knows to have been a lobbyist in the previous calendar year and knows to have purchased any of the following:
(A) From the member or candidate, the member's or candidate's sole proprietorship, or the member's or candidate's family business, goods or services for which the lobbyist paid in excess of one hundred dollars ($100).
(B) From the member's or candidate's partner, goods or services for which the lobbyist paid in excess of one thousand dollars ($1,000).
This subdivision does not apply to purchases made after December 31, 1998, by a lobbyist from a legislator's retail business made in the ordinary course of business at prices that are available to the general public. For purposes of this subdivision, a legislator's business is considered a retail business if the business is a retail merchant as defined in IC 6-2.5-1-8.
(8) The name of any person or entity from whom the member or candidate received the following:
(A) Any gift of cash from a lobbyist.
(B) Any single gift other than cash having a fair market value in excess of one hundred dollars ($100).
However, a contribution made by a lobbyist to a charitable organization (as defined in Section 501(c) of the Internal Revenue Code) in connection with a social or sports event attended by legislators need not be listed by a member of the general assembly unless the contribution is made in the name of the legislator.
(C) Any gifts other than cash having a fair market value in the aggregate in excess of two hundred fifty dollars ($250). Campaign contributions need not be listed. Gifts from a spouse or close relative need not be listed unless the donor has a substantial economic interest in a legislative matter.
(9) The name of any lobbyist who is:
(A) a member of a partnership or limited liability company;
(B) an officer or a director of a corporation; or
(C) a manager of a limited liability company;
of which the member of or candidate for the general assembly is a partner, an officer, a director, a member, or an employee, and a description of the legislative matters which are the object of the lobbyist's activity.
(10) The name of any person or entity on whose behalf the member or candidate has appeared before, contacted, or transacted business with any state agency or official thereof, the name of the state agency, the nature of the appearance, contact, or transaction, and the cause number, if any. This requirement does not apply when the services are rendered without compensation.
(11) The name of any limited liability company of which the member of the general assembly, the candidate, or the member's or candidate's individual spouse has an interest.

(b) Before any person, who is not a member of the general assembly files the person's declaration of candidacy, declaration of intent to be a write-in candidate, or petition of nomination for office or is selected as a candidate for the office under IC 3-13-1 or IC 3-13-2, the person shall file with the clerk of the house or secretary of the senate, respectively, the same written statement of economic interests for the preceding calendar year that this section requires members of the general assembly to file.
(c) Any member of or candidate for the general assembly may file an amended statement upon discovery of additional information required to be reported.".
Page 2, line 24, strike "31," and insert "**15,**".
Renumber all SECTIONS consecutively.
(Reference is to ESB 1 as printed February 22, 2002.)
WHETSTONE
Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 17

Representative Cheney called down Engrossed Senate Bill 17 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 17–1)

Mr. Speaker: I move that Engrossed Senate Bill 17 be amended to read as follows:
Page 2, line 10, after "Index" insert "**for Urban Wage Earners and Clerical Workers**".
(Reference is to ESB 17 as printed February 22, 2002.)
CHENEY
Motion prevailed. The bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed Senate Bill 29

Representative Stilwell called down Engrossed Senate Bill 29 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 29–1)

Mr. Speaker: I move that Engrossed Senate Bill 29 be amended to read as follows:
Page 4, between lines 36 and 37, begin a new paragraph and insert:
"SECTION 4. IC 8-1-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 83. (a) ~~No~~ **This section does not apply to the following:**
(1) A corporation organized or operating under IC 8-1-13.
(2) A corporation that:
(A) is organized under IC 23-17; and
(B) has members that are local district corporations as described in IC 8-1-13-23.
(b) As used in this section, "control" means the power to direct the management and policies of a public utility, utility company, or holding company through:
(1) ownership of voting securities or stock;
(2) the terms of a contract; or
(3) other means.
The term does not include power to direct management and policies derived from holding an official position or corporate office with the public utility, utility company, or holding company. A person that owns, controls, or has the power to vote or the power to vote proxies that constitute at least twenty percent (20%) of the total vote power of a public utility, utility company, or holding company is presumed to have control of the public utility, utility company, or holding company.
(c) As used in this section, "holding company" means a company that has control over at least one (1) of the following:
(1) A public utility.
(2) A utility company.
(d) As used in this section, "person" means:
(1) an individual;
(2) a firm;

(3) a corporation;
(4) a company;
(5) a partnership;
(6) a limited liability company;
(7) an association;
(8) a trustee;
(9) a lessee; or
(10) a receiver.

(e) As used in this section, "reorganization" means a transaction that results in:

(1) a change in the ownership of a majority of the voting capital stock of a public utility;
(2) a change in the ownership or control of an entity that owns or controls a majority of the voting capital stock of a public utility;
(3) the merger of two (2) or more public utilities; or
(4) the acquisition by a public utility of substantially all the assets of another public utility.

(f) As used in this section, "utility company" means every corporation, company, partnership, limited liability company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment for the:

(1) conveyance of telegraph or telephone messages;
(2) production, transmission, delivery, or furnishing of heat, light, water, or power; or
(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that acquires, owns, or operates any of the foregoing facilities.

(g) A public utility ~~as defined in section 1 of this chapter, shall~~ **may not do any of the following without approval of the commission after a hearing:**

(1) Sell, assign, transfer, lease, or encumber its franchise, works, or system to any other person, partnership, limited liability company, or corporation. ~~or~~

(2) Contract for the operation of any part of its works or system by any other person, partnership, limited liability company, or corporation. ~~without the approval of the commission after hearing. And no such~~

(3) Contract for or effect a reorganization of the public utility.
(4) Acquire control of a public utility, utility company, or holding company.

(h) A person may not acquire control of a public utility or a holding company of a public utility without approval of the commission after a hearing.

(i) A holding company that controls one (1) or more public utilities may not acquire control of a utility company without approval of the commission after a hearing.

(j) A public utility, except temporarily or in case of emergency and for a period of not exceeding thirty (30) days, ~~shall~~ **may not** make any special contract at rates other than those prescribed in its schedule of rates theretofore filed with the commission, and in force, with any other utility for rendering any service to or procuring any service from such other utility, without the approval of the commission. It shall be lawful, however, for any utility to make a contract for service to or from another utility at rates previously filed with and approved by the commission and in force.

~~(b)~~ **(k)** The approval of the commission of the sale, assignment, transfer, lease, or encumbrance of a franchise or any part thereof under this section shall not revive or validate any lapsed or invalid franchise, or enlarge or add to the powers and privileges contained in the grant of any franchise or waive any forfeiture. No such public utility shall directly or indirectly purchase, acquire, or become the owner of any of the property, stock, or bonds of any other public utility authorized to engage or engaged in the same or a similar business, or operating or purporting to operate under a franchise from the same or any other municipality or under an indeterminate permit unless authorized so to do by the commission.

(l) The commission shall issue an order not later than one hundred thirty-five (135) days after a petition seeking approval is filed under this section. If the commission fails to issue an order within one hundred thirty-five (135) days after the petition is filed, the petition is considered approved.

~~(c)~~ **(m)** Nothing contained in this section shall prevent the holding of stock lawfully acquired before May 1, 1913, or prohibit, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking, or holding by the owner of a proportionate amount of the stock of any new corporation organized to take over at foreclosure or other sale, the property of the corporation whose stock has been thus surrendered or exchanged.

~~(d)~~ **(n)** Every contract by any public utility for the purchase, acquisition, assignment, or transfer to it of any of the stock of any other public utility by or through any person, partnership, limited liability company, or corporation without the approval of the commission shall be void and of no effect, and no such transfer or assignment of such stock upon the books of the corporation pursuant to any such contract shall be effective for any purpose.

SECTION 5. IC 8-1-2-115.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 115.5. (a) As used in this section, "account" refers to the commission public utility fund account established under IC 8-1-6.**

(b) As used in this section, "order" means:

(1) a decision;
(2) a decree;
(3) a demand;
(4) a determination;
(5) a direction;
(6) an order;
(7) a requirement; or
(8) a rule;

of the commission.

(c) As used in this section, "utility" means:

(1) a public utility over which the commission has jurisdiction; or
(2) the department of public utilities created under IC 8-1-11.1.

(d) The commission may issue an order under subsection (e) only if it finds, after notice and hearing, that a utility has:

(1) violated a provision of this title;
(2) failed to comply with an order; or
(3) failed to comply with an administrative rule adopted by the commission under this title.

(e) After making a finding under subsection (d), the commission may issue an order that does one (1) or more of the following:

(1) Imposes on a utility, other than a telephone company (as defined in section 88 of this chapter) that provides local exchange telephone service, a civil penalty of:
(A) five thousand dollars ($5,000) for an initial violation or noncompliance found under subsection (d); or
(B) fifteen thousand dollars ($15,000) for a second or subsequent violation or noncompliance found under subsection (d).

For purposes of this subdivision, each day that a violation or noncompliance occurs is a separate violation or noncompliance.

(2) Orders a utility to cease and desist from a violation or noncompliance found under subsection (d).
(3) Mandates corrective action by a utility to alleviate a violation or noncompliance found under subsection (d).
(4) Revokes or modifies the terms of a utility's:
(A) certificate of territorial authority;
(B) certificate of public convenience and necessity; or
(C) other permit issued by the commission.

(f) The commission shall consider the following when determining the amount of a civil penalty:

(1) The size of the utility.
(2) The gravity of the violation or noncompliance found under subsection (d).
(3) The good faith of the utility in remedying the violation

or achieving compliance after receiving notice of a violation or noncompliance under subsection (d).

(g) This section does not apply to a violation or noncompliance found under subsection (d) that was the result of the following:

(1) Customer provided equipment.

(2) The negligent act of a customer.

(3) An emergency situation.

(4) An unavoidable casualty.

(5) An act of God.

(h) The attorney general shall bring an action to enforce an order of the commission under subsection (e). If the attorney general prevails in an action under this subsection, the attorney general may recover reasonable attorney's fees and court costs.

(i) Civil penalties under this section are cumulative. A suit for recovery of a civil penalty does not affect:

(1) the recovery of another civil penalty or forfeiture for a separate violation or noncompliance; or

(2) a criminal prosecution against:

(A) a public utility;

(B) an agent, a director, an employee, or an officer of a public utility; or

(C) any other person.

(j) The secretary of the commission shall direct that a civil penalty collected under this section be distributed as follows:

(1) A penalty assessed for a violation that directly affects ratepayers must be refunded directly to the customers of the violating utility in the form of a credit on customer bills.

(2) A penalty assessed for a violation that directly harms another utility must be awarded directly to the other utility.

(3) A penalty assessed for a violation that does not directly affect ratepayers or harm another utility must be deposited into the account.

(k) The commission shall use penalties deposited into the account for:

(1) consumer education;

(2) promotion of utility competition; or

(3) any other purpose considered by the commission to further the public interest.

The commission shall report to the regulatory flexibility committee the distribution of deposits under this section.

(l) Penalties deposited into the account may not be included in:

(1) the calculation of the difference between actual expenditures and appropriations described in IC 8-1-6-1(b); or

(2) any public utility fee credit.

SECTION 6. IC 8-1-2-128 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 128. (a) As used in this section, "utility" means:**

(1) a public utility over which the commission has jurisdiction; or

(2) the department of public utilities created under IC 8-1-11.1.

(b) If the commission:

(1) determines that the provision of utility service is necessary to:

(A) prevent injury to a person; or

(B) alleviate an emergency; and

(2) directs a utility to provide utility service;

the utility shall provide utility service within twenty-four (24) hours after receiving direction from the commission.

SECTION 7. IC 8-1-2-129 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 129. The commission may require a public utility to post a reasonable performance bond as a condition of the public utility's operation in Indiana. The amount of the reasonable performance bond may not exceed two million dollars ($2,000,000).**

SECTION 8. IC 8-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) All fees herein prescribed shall be paid into the treasury of the state of Indiana through the secretary of the commission and quietused into an account to be known as the commission public utility fund account. This account shall be used for enforcing the provisions of IC 8-1-1 and IC 8-1-2 and shall be utilized only for the purpose of funding the expenses of the commission and the consumer counselor in amounts not in excess of their respective appropriations by the general assembly, plus the contingency fund. All appropriations under this chapter paid out of the commission public utility fund account shall be subject to the prior approval of the general assembly, the governor, and the ~~state~~ budget agency.

(b) **The secretary of the commission shall deposit into the account the following:**

(1) Fees collected from municipalities under IC 8-1-2-85. ~~shall also be deposited in the commission public utility fund account, as if they were fees collected from public utilities under this chapter.~~

(2) Civil penalties collected under IC 8-1-2-115.5.

SECTION 9. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Merchant Power Plants

Sec. 1. This chapter does not apply to a merchant power plant that has filed a petition with the commission under IC 8-1-2.5 before March 1, 2001, seeking an order that the commission decline to exercise, in whole or in part, its jurisdiction over the merchant power plant.

Sec. 2. (a) As used in this chapter, "merchant power plant" means a facility within Indiana used for the:

(1) production, transmission, delivery, or furnishing of heat, light, or power; and

(2) sale of electric energy exclusively on the wholesale market;

to other public utilities, energy service providers, or power marketers within or outside Indiana.

(b) The term includes a facility that has made a significant alteration to the labor used to construct or remodel the facility. For purposes of this subsection, a facility makes a significant alteration in the labor used to construct or remodel a facility if the person uses contractors, subcontractors, or work crews that include workers who are not participants in or have not completed a jointly administered labor and management apprenticeship program approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(c) The term does not include a facility that is owned, controlled, or operated by a person that is obligated contractually to provide substantially all of the wholesale power requirements of an electricity supplier under a contract extending at least five (5) years.

Sec. 3. Except as provided in section 1 of this chapter, a merchant power plant is subject to the jurisdiction of the commission.

Sec. 4. (a) The commission shall consider the following when acting upon any petition by a merchant power plant under IC 8-1-2.5 or IC 8-1-8.5:

(1) Location.

(2) Need.

(3) Financing.

(4) Reporting requirements.

(5) Impact on electric, water, and natural gas suppliers and customers.

(6) The recommendation of the department of natural resources under section 12 of this chapter.

(b) The commission shall issue a decision either approving or denying a merchant power plant's petition under IC 8-1-2.5 or IC 8-1-8.5 not later than eighteen (18) months after the date of the petition.

Sec. 5. (a) When petitioning the commission under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant must establish proof of financial responsibility by filing one (1) or a combination of the following with the commission:

(1) A fully funded trust fund agreement.

(2) A surety bond with a standby trust fund agreement.

(3) A letter of credit with a standby trust fund agreement.

(4) An insurance policy with a standby trust fund agreement.

(5) Proof that the merchant power plant meets a financial test established by the commission and equivalent to one (1) of the items in subdivisions (1) through (4).

(b) The amount of financial responsibility that a merchant power plant must establish under this section shall be determined by the commission. In all cases, the amount must be sufficient to close the merchant power plant in a manner that:

(1) minimizes the need for further maintenance and remediation; and

(2) provides reasonable, foreseeable, and necessary maintenance and remediation after closure for at least twenty (20) years after the merchant power plant ceases operations.

(c) The commission may use:

(1) a trust fund agreement;

(2) a surety bond;

(3) a letter of credit;

(4) an insurance policy; or

(5) other proof of financial responsibility;

filed under this section for the closure or post-closure monitoring, maintenance, or remediation of a merchant power plant approved by the commission, if the merchant power plant does not comply with closure or post-closure standards established by the commission under subsection (d).

(d) The commission shall adopt rules under IC 4-22-2 to establish the following:

(1) Standards for the proper closure and post-closure monitoring, maintenance, and remediation of merchant power plants.

(2) Criteria for how money in a trust fund agreement, a surety bond, a letter of credit, an insurance policy, or other proof of financial responsibility provided by a merchant power plant may be released to the merchant power plant when the merchant power plant meets the closure and post-closure standards established under subdivision (1).

Sec. 6. (a) Not later than seven (7) days after filing a petition under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall:

(1) send notice of the petition by United States mail to all record owners of real property located within one-half (½) mile of the proposed facility; and

(2) cause notice of the petition to be published in a newspaper of general circulation in each county in which the facility or proposed facility is or will be located.

(b) The notice of the petition shall include:

(1) a description of the facility or proposed facility; and

(2) the location, date, and time of the field hearing required by section 7 of this chapter.

Sec. 7. Not later than thirty (30) days after filing a petition under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall conduct a field hearing at a location in a county in which the facility or proposed facility is or will be located. The purpose of the field hearing is to determine local support for the merchant power plant.

Sec. 8. Not later than thirty (30) days after the field hearing required by section 7 of this chapter, a majority of the persons described in section 6(a)(1) of this chapter may request in writing a hearing before the commission.

Sec. 9. (a) Not later than thirty (30) days after a hearing is requested under section 8 of this chapter, the commission shall conduct a hearing at a location in a county in which the facility or proposed facility is or will be located. The hearing required by this subsection must be held:

(1) before or at the same time as the hearing required under IC 8-1-8.5-5(b); and

(2) before the commission issues a certificate of public convenience and necessity under IC 8-1-8.5.

(b) At least ten (10) days before the scheduled hearing, notice of the hearing must be served by first class mail on:

(1) all record owners of property located within one-half (½) mile of the proposed facility; and

(2) the merchant power plant.

(c) The parties to the hearing include:

(1) a person entitled to notice under section 9(b)(1) of this chapter; and

(2) the merchant power plant.

(d) The commission shall accept written or oral testimony from any person who appears at the public hearing, but the right to call and examine witnesses is reserved for the parties to the hearing.

(e) The commission shall make a record of the hearing and all testimony received. The commission shall make the record available for public inspection.

Sec. 10. Not later than forty-five (45) days after a hearing is conducted under section 9 of this chapter, the commission shall issue written findings based on the testimony presented at the hearing. To the extent the commission's findings differ from testimony presented at the hearing, the commission must explain its findings.

Sec. 11. When considering whether to approve a merchant power plant, the commission shall give preference to the following locations for siting:

(1) Brownfield sites that are isolated from populated areas.

(2) Sites of existing or former utilities that can be replaced or repowered.

(3) Other sites identified for power plant or heavy industrial development in local land use plans before the initiation of site selection for the facility.

Sec. 12. (a) For purposes of this section:

(1) "department" refers to the department of natural resources; and

(2) "water resource" has the meaning set forth in IC 14-25-7-8.

(b) When considering whether to approve a merchant power plant, the commission shall obtain a recommendation from the department regarding the merchant power plant's planned use of and its potential effect on the water resource.

(c) To make its recommendation, the department may do the following:

(1) Rely on the merchant power plant's water resource assessment under subsection (d).

(2) Consult with and advise users of the water resource.

(3) Enter upon any land or water in Indiana to evaluate the effect of the merchant power plant on the water resource.

(4) Conduct studies to evaluate the availability and most practical method of withdrawal, development, conservation, and use of the water resource.

(5) Require metering or other reasonable measuring of water withdrawals and reporting of the measurement to the department.

(6) Engage in any other activity necessary to carry out the purposes of this section.

(d) A merchant power plant shall provide an assessment of its effect on the water resource and its users to the commission and the department. The assessment shall be prepared by a licensed professional geologist (as defined in IC 25-17.6-1-6.5) or an engineer licensed under IC 25-31-1. The assessment must include the following information:

(1) Sources of water supply.

(2) Total amount of water to be used by the merchant power plant for each source.

(3) Location of wells or points of withdrawal.

(4) Ability of the water resource to meet the needs of the merchant power plant and other users.

(5) Probable effects of the merchant power plant's use and consumption of the water resource on other users.

(6) Alternative sources of water supply.

(7) Conservation measures proposed by the merchant power plant for reducing the plant's effect on the water resource.

(8) Other information required by any other law, rule, or regulation.

Sec. 13. Following the approval of a petition by the commission, the merchant power plant shall:

(1) notify the commission upon becoming an affiliate of any regulated Indiana utility selling electricity at retail to Indiana consumers, at which time the commission may reassert any jurisdiction it had declined under IC 8-1-2.5;

(2) obtain prior commission approval with respect to the sale of any electricity to any affiliated regulated Indiana retail utility or any affiliate of a regulated Indiana retail utility; and

(3) obtain prior commission approval of any transfers of ownership of the facility or its assets.".

Page 10, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 5. IC 8-1-2-115 IS REPEALED [EFFECTIVE JULY 1, 2002].".

Renumber all SECTIONS consecutively.

(Reference is to ESB 29 as printed February 22, 2002.)

PELATH

Upon request of Representatives Pelath and Fry, the Speaker ordered the roll of the House to be called. Representative Gregg was excused from voting. Roll Call 189: yeas 57, nays 35. Motion prevailed.

HOUSE MOTION
(Amendment 29–2)

Mr. Speaker: I move that Engrossed Senate Bill 29 be amended to read as follows:

Page 4, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 4. IC-8-1-8.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Merchant Power Plant Certification and Siting

Sec. 1. As used in this chapter, "brownfield" has the meaning set forth in IC 13-11-2-19.3.

Sec. 2. (a) As used in this chapter, "merchant power plant" means an electric generating facility all or a designated part of which is used for the production and sale of electric energy exclusively into the wholesale power market or to other utilities, energy service providers, or power marketers within or outside Indiana. However, for purposes of sections 2 through 18 of this chapter, the term does not include a plant all or a designated part of which, before becoming a plant or a designated part of a plant used for the production and sale of electric energy exclusively into the wholesale power market, was used to produce electric energy for sale to retail Indiana customers.

(b) The term does not include plants owned by any of the following:

(1) A corporation organized and operating under IC 8-1-13.

(2) A nonprofit Indiana corporation most of whose members are organized and operating under IC 8-1-13.

(3) A joint agency created and operating under IC 8-1-2.2.

(4) A municipally owned utility.

Sec. 3. As used in this chapter, "need" means a commission finding supported by substantial evidence that:

(1) the regional power market has a projected need:

(A) for the type of capacity being proposed at or near the time the proposed merchant power plant is expected to become commercially operational; and

(B) that will not be met by other supply or demand side resources reasonably expected to be available at or near the time described in clause (A); and

(2) the merchant power plant being proposed is likely to be dispatched with sufficient frequency in the wholesale regional power market over the period of its expected operating life to recover its revenue requirement.

Sec. 4. As used in this chapter, "person" means any corporation, company, partnership, limited liability company, individual, association of individuals, or their lessees, trustees, or receivers appointed by a court.

Sec. 5. As used in this chapter, "petitioner" means a person that files with the commission a petition under this chapter to site a merchant power plant.

Sec. 6. Any person that owns, operates, manages, or controls a merchant power plant in Indiana is a public utility (as defined in IC 8-1-2-1(a)).

Sec. 7. (a) A person may not begin to construct a merchant power plant by significantly altering a site to install permanent equipment or structures unless the person files a petition with and obtains approval from the commission under this chapter.

(b) The commission shall issue a decision approving or denying a petition under the chapter not earlier than two hundred seventy (270) days after the filing of the petition.

(c) A person filing a petition under this chapter shall publish a notice of the filing in a newspaper of general circulation published in the county in which the proposed merchant power plant is to be located.

Sec. 8. (a) The commission may approve the siting of a merchant power plant if the commission determines that the siting of the merchant power plant is not adverse to the interests of the:

(1) citizens of Indiana; and

(2) citizens of the locality where the merchant power plant is proposed to be sited.

Sec. 9. The commission shall consider the following when acting upon a petition by a petitioner under this chapter:

(1) The need for the merchant power plant.

(2) The location of the merchant power plant.

(3) The ownership or transfer of ownership of the merchant power plant.

(4) The management of the merchant power plant.

(5) The financing of the merchant power plant.

(6) The capacity of the merchant power plant.

(7) The type and size of the merchant power plant.

(8) The type of fuel used by the merchant power plant.

(9) The merchant power plant's fuel supply arrangements and its effect on the reliability of Indiana's electrical system and the price and availability of the fuel for other uses in Indiana, taking into account the effects of other merchant power plants.

(10) The merchant power plant's electric supply contracts.

(11) The merchant power plant's effect on the electric and gas transmission systems serving Indiana.

(12) The merchant power plant's effect on:

(A) water supplies and usage, taking into account the effects of other merchant power plants using the same or interconnected sources of water; and

(B) current users of the sources of water.

(13) Local ordinances and area plans.

(14) Oral and written testimony received by the commission under section 13 of this chapter.

(15) The results of the study required under section 21 of this chapter.

(16) Other factors that the commission considers relevant in making a determination required under this chapter.

Sec. 10. The petitioner must provide documentation to the commission that it has thoroughly considered the feasibility and economics of the following types of sites:

(1) Brownfield sites that are isolated from populated areas.

(2) Sites of existing or former utilities that can be replaced or repowered.

(3) Other sites identified for power plant and heavy industrial development in local land use plans before the initiation of site selection for the merchant power plant.

Sec. 11. (a) As used in this section:

(1) "department" refers to the department of natural resources; and

(2) "water resource" has the meaning set forth in IC 14-25-7-8.

(b) When considering whether to approve a merchant power plant, the commission shall obtain a recommendation from the department regarding the merchant power plant's planned use of and its potential effect on the water resource.

(c) In making its recommendation, the department may do the

following:

(1) Rely on the merchant power plant's water resource assessment under subsection (d).

(2) Consult with and advise users of the water resource.

(3) Enter upon any land or water in Indiana to evaluate the effect of the merchant power plant on the water resource.

(4) Conduct studies to evaluate the availability and most practical method of withdrawal, development, conservation, and use of the water resource.

(5) Require metering or other reasonable measuring of water withdrawals and reporting of the measurement to the department.

(6) Engage in any other activity necessary to carry out the purposes of this section.

(d) A petitioner shall provide to the commission and the department an assessment of the proposed merchant power plant's effect on the water resource and its users. The assessment shall be prepared by a licensed professional geologist (as defined in IC 25-17.6-1-6.5) or an engineer licensed under IC 25-31-1. The assessment must include the following information:

(1) Sources of water supply.

(2) Total amount of water to be used by the merchant power plant for each source.

(3) Location of wells or points of withdrawal.

(4) Ability of the water resource to meet the needs of the merchant power plant and other users.

(5) Ability of the water resource to meet the future needs of the county in which the proposed merchant power plant is to be located.

(6) Alternative sources of water supply.

(7) Conservation measures proposed by the petitioner for reducing the merchant power plant's effect on the water resource.

Sec. 12. (a) If a person files a petition with the commission under this chapter or any other law for the siting of a merchant power plant, the person must establish proof of financial responsibility by filing one (1) or a combination of the following with the commission at a time, either before or after commission approval of the petition, that shall be determined by the commission:

(1) A fully funded trust fund agreement.

(2) A surety bond with a standby trust fund agreement.

(3) A letter of credit with a standby trust fund agreement.

(4) An insurance policy with a standby trust fund agreement.

(5) Proof that the merchant power plant meets a financial test established by the commission and equivalent to one (1) of the items in subdivisions (1) through (4).

(b) The amount of financial responsibility that a person must establish under this section shall be determined by the commission. In all cases, the amount must be sufficient, but not more than reasonably necessary, to:

(1) fully decommission the site and remove structures, equipment, and site hazards;

(2) minimize the need for further maintenance and remediation; and

(3) provide for reasonable, foreseeable, and necessary maintenance and remediation after closure of the merchant power plant for at least twenty (20) years;

after the merchant power plant ceases operations.

(c) The commission may use:

(1) a trust fund agreement;

(2) a surety bond;

(3) a letter of credit;

(4) an insurance policy; or

(5) other proof of financial responsibility;

filed under this section for the closure and post closure monitoring, maintenance, or remediation of a merchant power plant approved by the commission if the merchant power plant does not comply with closure or post closure standards established by the commission under subsection (d).

(d) The commission shall adopt rules under IC 4-22-2 to establish criteria for how money in a trust fund agreement, a surety bond, a letter of credit, an insurance policy, or other proof of financial responsibility provided by a merchant power plant meets the standards to decommission the merchant power plant under subsection (b)(1).

Sec. 13. (a) Not later than thirty (30) days after the petitioner has prefiled its testimony before the commission for the siting of a merchant power plant under this chapter, the commission shall conduct a hearing at a location in the county in which the merchant power plant is proposed.

(b) The commission shall send notice of the hearing by first class mail at least ten (10) days before the hearing to the following:

(1) Relevant state regulatory agencies, as determined by the commission.

(2) Zoning and area plan authorities for the:

(A) county; and

(B) municipality, if any;

where the merchant power plant is proposed.

(3) Record owners of real property located within one-half (½) mile of the proposed site for the merchant power plant. However, at the commission's discretion, the commission may require notification to record owners of real property located within not more than two (2) miles of the proposed site in sparsely populated areas.

(c) The commission shall cause notice of the hearing to be published in a newspaper of general circulation in each county in which the merchant power plant is proposed. The publication required under this subsection must occur once a week for two (2) weeks, with the second publication occurring at least fifteen (15) days before the date of the hearing.

(d) The commission shall accept written and oral testimony from any person who appears at the public hearing.

(e) The commission shall make a record of the hearing and all testimony received. The commission shall make the record available for public inspection.

Sec. 14. Following the approval of a petition by the commission, the merchant power plant shall submit the following to the commission:

(1) At least one (1) week before commencement of construction activities, a startup report that includes the:

(A) status of necessary permits; and

(B) expected in service date.

(2) A midpoint report, to be submitted at a time determined by the commission, that includes information concerning the:

(A) status of construction; and

(B) expected in service date.

(3) A testing notice at least two (2) weeks before any testing of the merchant power plant.

(4) At the time of the initial commercial operation of the merchant power plant, an in service notice that includes the following:

(A) Contracts for firm utility sales and contracts for firm sales to Indiana utilities.

(B) A summary of fuel contracts, including any pipelines involved in the transactions.

(C) Contingency plans, if any, detailing response plans to emergency conditions as required by state or local units of government, transmission owners, or any regional transmission grid operator.

(D) Certified dependable capacity rating.

(5) Not later than thirteen (13) months after the in service date, a first year report that includes the following:

(A) Summer and winter dependable capacity ratings.

(B) The annual capacity factor, including the summer and winter seasonal capacity factor.

(C) The hours of operation for each season.

(D) Total annual, peak day, and summer seasonal water usage and discharge.

(E) An itemization of transmission load restrictions or other operational restrictions incurred during the year.

(F) The number of employees employed by the merchant power plant.

(6) Other information requested by the commission.

Sec. 15. Following approval of a petition for the siting of a merchant power plant by the commission, the petitioner must:

(1) notify the commission upon becoming an affiliate of any regulated Indiana utility selling electricity at retail to Indiana consumers;

(2) obtain prior commission approval for the sale of electricity to any affiliate that is a regulated Indiana retail utility, except for electricity purchased on the wholesale spot market;

(3) obtain prior commission approval of any transfers of ownership of the merchant power plant or its assets;

(4) obtain commission approval before altering the capacity or significantly altering the size of the merchant power plant; and

(5) obtain commission approval before altering the type of fuel used.

Sec. 16. After notice and hearing, the commission may withdraw its approval for the siting of a merchant power plant if the petitioner or subsequent owner or operator:

(1) fails to commence construction of the merchant power plant within two (2) years of the date of the commission's order of approval and is no longer diligently pursuing the commencement of construction of the merchant power plant; or

(2) fails to complete construction of the merchant power plant within five (5) years of the date of the commission's order of approval.

Sec. 17. (a) A person that receives commission approval of the siting of a merchant power plant under this chapter or any other law, or the subsequent owner or operator of the merchant power plant for which siting approval is given, must operate the merchant power plant in accordance with the commission's order of approval.

(b) If the commission finds that the merchant power plant is not operating in accordance with the commission's approval, the commission may:

(1) order an investigation; and

(2) revoke the approval after the investigation, a hearing, and the conclusion of the appeals process.

Sec. 18. (a) Notwithstanding IC 8-1-2.5-5, the commission may not decline to exercise its jurisdiction under this chapter with respect to a merchant power plant. However, the commission may adopt rules under IC 4-22-2 to establish procedures for the exercise of its jurisdiction under this chapter that differ according to the type, size, or fuel resource of the merchant power plant.

(b) Whenever the commission substantially declines its jurisdiction under IC 8-1-2.5 with respect to a merchant power plant and its developer, the developer may not exercise the powers conferred under IC 4-20.5-7-10.5, IC 5-11-10-1(c)(1), IC 6-1.1-8-1 or IC 8-1-8-1, or any other rights, privileges, or immunities conferred by law on electric utilities assigned service areas under IC 8-1-2.3 on account of the obligation of electric utilities to serve the general public without undue discrimination at regulated rates and charges.

(c) Except as provided by federal law, the commission has sole and exclusive jurisdiction over the siting and location of utility facilities, including merchant power plants.

Sec. 19. Information pertaining to:

(1) fuel arrangements or contracts; or

(2) electric sales and contracts;

of merchant power plants that are approved by the commission under this chapter or any other law is not a public record under IC 5-14-3.

Sec. 20. The commission shall direct the state utility forecasting group established under IC 8-1-8.5-3.5 to conduct an annual regional power market study to assess:

(1) the need for merchant power plant additions in the region;

(2) the effect of merchant power plants on the price of fuels used by merchant power plants;

(3) the effect of merchant power plants on the price of electricity;

(4) the effect of merchant power plant construction and operation on the deployment of demand side resources regionally and in Indiana;

(5) the amount of merchant power plant capacity contracted to Indiana electric utilities;

(6) the amount of merchant power plant capacity contracted to out of state marketers and electric utilities; and

(7) other issues the commission considers relevant.".

Page 10, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission established under IC 8-1-1-2.**

(b) Except as provided in subsection (c), a petitioner that files for commission approval of the siting of a merchant power plant before the effective date of this act is not subject to IC 8-1-8.4, as added by this act.

(c) A petitioner that files for commission approval of the siting of a merchant power plant before the effective date of this act is subject to:

(1) IC 8-1-8.4-6;

(2) IC 8-1-8.4-12;

(3) IC 8-1-8.4-15;

(4) IC 8-1-8.4-17;

(5) IC 8-1-8.4-18(b); and

(6) IC 8-1-8.4-19;

all as added by this act. If a petitioner has filed for commission approval of the siting of a merchant power plant and the commission has not issued an order approving or denying the petition before the effective date of this act, the petitioner is also subject to IC 8-1-8.4-16, as added by this act.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 29 as printed February 22, 2002.)

T. ADAMS

Representative Foley rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question was on the motion of Representative T. Adams (29–2). Motion prevailed. The bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed Senate Bill 57

Representative Kuzman called down Engrossed Senate Bill 57 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 57–1)

Mr. Speaker: I move that Engrossed Senate Bill 57 be amended to read as follows:

Page 244, between lines 20 and 21, begin a new paragraph and insert:

"**Chapter 3.1. Occupying Claimant**

Sec. 1. If an occupant of real property:

(1) has color of title to the property;

(2) in good faith has made valuable improvements to the property; and

(3) after making improvements to the property is found, in a court action, not to be the rightful owner of the property;

an order may not be issued to give the plaintiff possession of the property until a complaint that meets the requirements of section 2 of this chapter has been filed and the provisions of this chapter are complied with.

Sec. 2. The complaint must:

(1) set forth the grounds on which the defendant seeks relief; and

(2) state, as accurately as practicable, the value of the improvements on the real property and the value of the property without the improvements.

Sec. 3. All issues under this chapter joined together must be tried as in other cases, and the court or jury trying the cause shall assess the following:

(1) The value of all lasting improvements made on the real property in question before the commencement of the action for the recovery of the property.

(2) The damages, if any, which the premises may have sustained by waste or cultivation through the time the court renders a judgment.

(3) The fair value of the rents and profits that may have accrued, without the improvements, through the time the court renders a judgment.

(4) The value of the real property that the successful claimant has in the premises, without the improvements.

(5) The taxes, with interest, paid by the defendant and by those under whose title to the property the defendant claims.

Sec. 4. The plaintiff in the main action for possession of the real property may pay the appraised value of the improvements to the real property, and the taxes paid, with interest, deducting the value of the rents and profits, and the damages sustained, as assessed at the trial, and take the property.

Sec. 5. If a plaintiff fails to pay the defendant the value of the improvements to the real property established under section 4 of this chapter after a reasonable time fixed by the court, the defendant may take the property after paying the plaintiff the appraised value of the property, minus the value of the improvements.

Sec. 6. If the plaintiff does not pay the defendant the appraised value of the improvements to the real property under section 4 of this chapter and the defendant does not pay the plaintiff the appraised value of the real property under section 5 of this chapter within the time fixed by the court, the parties will be held to be tenants in common of all the real property, including the improvements, each holding an interest proportionate to the value of the party's property as determined under section 5 of this chapter.

Sec. 7. Except when the purchaser knows at the time of the sale that the seller lacks authority to sell the property, a purchaser who in good faith, at a judicial or tax sale, purchases property that is sold by the proper person or officer has color of title within the meaning of this chapter, whether or not the person or officer had sufficient authority to sell the property. The rights of the purchaser acquired under this section pass to the purchaser's assignees or representatives.

Sec. 8. An occupant of real property has color of title within the meaning of this chapter if the occupant:

(1) can show a connected title in law or equity, derived from the records of any public office; or

(2) holds the property by purchase or descent from a person claiming title derived from public records or by a properly recorded deed.

Sec. 9. (a) A claimant occupying real property who has color of title may recover the value of lasting improvements to the real property made by the party under whom the claimant claims, as well as those improvements made by the occupying claimant.

(b) A person holding the premises as a purchaser, by an agreement in writing from the party having color of title, is entitled to the remedy set forth in subsection (a).

Sec. 10. A plaintiff in an action for possession of real property to which this chapter applies is entitled to an execution for the possession of the real property in accordance with this chapter, but not otherwise.

Sec. 11. If any land is sold by an executor, an administrator, a guardian, a sheriff, or a commissioner of the court and afterwards the land is recovered in the proper action by:

(1) a person who was originally liable;

(2) a person in whose hands the land would be liable to pay the demand or judgment for which or for whose benefit the land was sold; or

(3) anyone making a claim under a person identified under subdivision (1) or (2);

the plaintiff is not entitled to a writ for the possession of the land without having paid the amount due, as determined under section 12 of this chapter (or IC 34-1-49-12 or IC 32-15-3-12 before their repeal) within the time determined by the court.

Sec. 12. Any defendant in the main court action for possession of real property may file a complaint setting forth the sale and title under it and any other matter allowed under this chapter. The court proceedings must assess the values, damages, and other amounts of which assessment is required under section 3 of this chapter. If after the main court action the plaintiff has not paid the amount assessed by the court, the court shall set a reasonable time for the plaintiff to pay the defendant. If the plaintiff does not pay the amount within the time set by the court, the court shall order the land sold without relief from valuation or appraisement laws. If the premises are sold, the defendant is entitled to receive from the proceeds of the sale the amount the defendant is due, with interest, and court costs. The plaintiff is entitled to the remainder of the proceeds of the sale.".

(Reference is to ESB 57 as printed February 22, 2002.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 71

Representative Weinzapfel called down Engrossed Senate Bill 71 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 71–1)

Mr. Speaker: I move that Engrossed Senate Bill 71 be amended to read as follows:

Page 8, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 7. IC 22-3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work, there shall be paid to the injured employee during such total disability for work a weekly compensation equal to fifty-five percent (55%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work, there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work, there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section 22 of this chapter,** a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average weekly wages up to one hundred and thirty-five dollars ($135.00) average weekly wages, as defined in section 22 of this chapter, for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during the total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22,~~ **section 22 of this chapter,** for a period not to exceed five hundred (500) weeks. **When an employee who has sustained a compensable injury returns to work and suffers a later period of disability due to that injury after July 1, 2002, the average weekly wage for that period of disability shall be determined based on the average weekly wage at the time of**

the disability subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in section 22 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

SECTION 8. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars ($1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars ($1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment. **All entities liable for and paying an assessment under this subsection are entitled to a credit against the assessment for the payments made the same year on which the assessment was based. These payments must have been made to an employee who was injured before January 1, 2003, and who had a later period of disability entitling the employee to an increase in the average weekly wage, as set forth in section 8 of this chapter. Any credit due shall be computed by the following formula:**

STEP ONE: Determine the amount of compensation the employee actually received based on the average weekly wage as of the last day worked before the later period of disability.

STEP TWO: Determine the amount of compensation the employee would have received based on the average weekly wage at the time of the original compensable injury.

STEP THREE: Determine the greater of zero (0) or the result of:

(A) the STEP ONE amount; minus

(B) the STEP TWO amount.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring

subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.".

Page 12, after line 42, begin a new line block indented and insert:

"**(5) In computing the average weekly wage for an employee who has sustained a compensable injury who has returned to work and has a later period of disability due to that injury after July 1, 2002, the average weekly wage for that period of disability shall be determined based on the average weekly wage at the time of that disability subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in IC 22-3-3-22.**".

Page 16, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 12. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars ($135); and

(B) not less than seventy-five dollars ($75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars ($156); and

(B) not less than seventy-five dollars ($75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars ($180); and

(B) not less than seventy-five dollars ($75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars ($195); and

(B) not less than seventy-five dollars ($75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars ($210); and

(B) not less than seventy-five dollars ($75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars ($234); and

(B) not less than seventy-five dollars ($75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars ($249); and

(B) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to disablements occurring on and after July 1,

2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75); and

(6) with respect to disablements occurring on and after July 1, 2002:

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars ($45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars ($52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars ($60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars ($65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars ($70,000) in any case;

(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars ($78,000) in any case; and

(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars ($83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, two hundred ninety-four thousand dollars ($294,000).

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly

amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) **In computing the average weekly wage for an employee who has sustained a compensable occupational disease who has returned to work and has a later period of disability due to that occupational disease after July 1, 2002, the average weekly wage for that period of disability shall be determined based on the average weekly wage at the time of that disability subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in this section.**

(x) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).".

Page 24, delete line 39.

Renumber all SECTIONS consecutively.

(Reference is to ESB 71 as printed February 22, 2002.)

STILWELL

Motion prevailed.

HOUSE MOTION
(Amendment 71–2)

Mr. Speaker: I move that Engrossed Senate Bill 71 be amended to read as follows:

Page 8, line 9, after "appliance;" insert "**or**".

Page 8, line 10, strike "knowing failure to obey a reasonable written or printed".

Page 8, strike line 11.

Page 8, line 12, strike "position in the place of work".

Page 8, line 12, delete "other than an order or regulation".

Page 8, line 13, delete "set forth in subsection (b)(2);".

Page 8, line 13, strike "or".

Page 8, line 14, delete "(5)".

Page 8, line 14, strike "duty." and insert "**duty, other than duties relating to safety equipment and rules as set forth in subsection (b).**".

Page 8, strike line 15.

Page 8, line 21, delete "in any degree".

Page 8, line 22, delete "a".

Page 8, line 22, delete "appliance" and insert "**equipment**".

Page 8, line 23, before "required" delete "or" and insert "**and**".

Page 8, delete lines 24 through 28, begin a new line block indented and insert:

"**(2) failure to obey a written or printed rule of the employer that has been posted in a conspicuous position in the place of work.**".

Page 8, between lines 28 and 29, begin a new paragraph and insert:

"**(c) The burden of proof is on the defendant.**".

SECTION 7. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (8th) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to any employment;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; ~~or~~

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury; **or**

(6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 33 of this chapter.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the

independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

SECTION 8. IC 22-3-3-10, AS AMENDED BY P.L.31-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred dollars ($100) average weekly wages, for the periods stated for the injuries. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of his average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks; for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the thumb or toe and compensation shall be paid for one-half (½) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars ($100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the

employee's average weekly wages not to exceed one hundred twenty-five dollars ($125) average weekly wages for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(c) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (d) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), the compensation shall be paid in an amount proportionate to the

degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2002,** for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2002, and before July 1, 2003, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars ($2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars ($2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars ($3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars ($3,906) per degree.

(10) With respect to injuries occurring on and after July 1, 2003, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars ($2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars ($3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars ($3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars ($4,531) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2003,** eight hundred eighty-two dollars ($882).

(11) With respect to injuries occurring on or after July 1, 2003, nine hundred forty-eight dollars ($948).

SECTION 9. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. ~~(a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.~~

~~(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).~~

~~(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:~~

~~(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and~~

~~(2) each employer carrying the employer's own risk;~~

~~stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars ($1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars ($1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.~~

~~(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.~~

~~(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.~~

~~(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.~~

~~(g)~~ **(a)** If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by ~~this section,~~ **IC 22-3-4-15,** as follows under subsection ~~(h).~~ **(b).**

~~(h)~~ **(b)** An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

~~(i)~~ **(c)** The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

~~(j) All insurance carriers subject to an assessment under this section are required to provide to the board:~~

~~(1) not later than January 31 each calendar year; and~~

~~(2) not later than thirty (30) days after a change occurs;~~

~~the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.~~

SECTION 10. IC 22-3-3-22, AS AMENDED BY P.L.31-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars ($70) nor less than thirty dollars ($30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars ($75) and not less than thirty dollars ($30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars ($85) and not less than thirty-five dollars ($35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars ($95) and not less than thirty-five dollars ($35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars ($100) if no dependents; (2) one hundred five dollars ($105) if one (1) dependent; (3) one hundred ten dollars ($110) if two (2) dependents; (4) one hundred fifteen dollars ($115) if three (3) dependents; (5) one hundred twenty dollars ($120) if four (4) dependents; and (6) one hundred twenty-five dollars ($125) if five (5) or more dependents; and (B) Not less than thirty-five dollars ($35). In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars ($135), and (B) not less than seventy-five dollars ($75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars ($156) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be (1) not more than one hundred eighty dollars ($180); and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars ($195), and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be (1) not more than two hundred ten dollars ($210), and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars ($234) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars ($249) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars ($267) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars ($285) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars ($384) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be (1) not more than four hundred eleven dollars ($411) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be (1) not more than four hundred forty-one dollars ($441) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be (1) not more than four hundred ninety-two dollars ($492) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be (1) not more than five hundred forty dollars ($540) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be (1) not more than five hundred ninety-one dollars ($591) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability,

temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be (1) not more than six hundred forty-two dollars ($642) and (2) not less than seventy-five dollars ($75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75); ~~and~~

(6) with respect to injuries occurring on and after July 1, 2002, **and before July 1, 2003:**

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75); **and**

(7) with respect to injuries occurring on and after July 1, 2003:

(A) not more than nine hundred forty-eight dollars ($948); and

(B) not less than seventy-five dollars ($75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars ($12,500) in any case. With respect to any injury occurring on and after April 1, 1957, and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars ($15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars ($16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars ($20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars ($25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars ($30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars ($45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars ($52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars ($60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars ($65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy thousand dollars ($70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars ($78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars ($83,000) in any case. With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars ($89,000) in any case. With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars ($95,000) in any case. With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions

of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars ($180,000) in any case.

With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(e) The maximum compensation, exclusive of medical benefits, **subject to IC 22-3-2-8,** that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to an injury occurring on and after July 1, 2002, **and before July 1, 2003,** two hundred ninety-four thousand dollars ($294,000).

(7) With respect to an injury occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation as set forth in section 8 of this chapter plus one hundred (100) degrees of permanent partial disability as set forth in section 10 of this chapter.

SECTION 11. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 33. (a) If an employee:**

(1) receives an injury that results in a temporary total disability or a temporary partial disability; and

(2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury;

the employee may receive disabled from trade compensation.

(b) An employee may receive disabled from trade compensation for a period not to exceed:

(1) fifty-two (52) consecutive weeks; or

(2) seventy-eight (78) aggregate weeks.

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the employee's average weekly earnings from employment with limitations or restrictions that is entered after the employee's injury, if any.

STEP TWO: Determine the employee's average weekly earnings from employment before the employee's injury.

STEP THREE: Determine the greater of:

(A) the STEP TWO result minus the STEP ONE result; or

(B) zero (0).

STEP FOUR: Determine the lesser of:

(A) the STEP THREE result; or

(B) with respect to injuries occurring on and after:

(1) July 1, 2002, and before July 1, 2003, eight hundred eighty-two dollars ($882); or

(2) July 1, 2003, nine hundred forty-eight dollars ($948).

(d) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

(1) an explanation of the limitations or restrictions placed on the employee;

(2) the amount of disabled from trade compensation the employee has been awarded; and

(3) information for the employee regarding the terms of this section.

(e) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(f) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (d) with the board.

SECTION 12. IC 22-3-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. In all proceedings before the worker's compensation board or in a court under IC 22-3-2 through IC 22-3-6, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of eight percent (8%) per year accruing from the date of filing of the application of adjustment of claim as determined under section 5(a) of this chapter.**

SECTION 13. IC 22-3-4-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 15.(a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.**

(b) If an employee who from any cause:

(1) had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident or exposure becomes permanently and totally disabled by reason of the loss, or loss of, another such member or eye; or

(2) has become impaired from an occupational disease and subsequently has become permanently and totally impaired from a second occupational disease;

the employer shall be liable only for the compensation payable for such second injury or impairment. However, in addition to such compensation and after the completion of the payment, the employee shall be paid the remainder of the compensation that is due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under IC 22-3-3-4(e), continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries or occupational disease to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. The board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or

providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries or occupational disease to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount equal to five hundred thousand dollars ($500,000) plus the recommended funding level under subsection (d). For purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board shall not consider payments for medical benefits in calculating an assessment under this subsection. When on or before October 1 of any year the amount to the credit of the fund is less than five hundred thousand dollars ($500,000) greater than the recommended funding level under subsection (d), the board shall assess an amount equal to five hundred thousand dollars ($500,000) plus the recommended funding level of the total amount of all compensation paid to employees or their beneficiaries under IC 22-3-2 through IC 22-3-7 for the calendar years preceding that date to be paid into the fund.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. The actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of agent commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.".

Page 16, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 17. IC 22-3-7-16, AS AMENDED BY P.L.1-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to work;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; ~~or~~

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease; **or**

(6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 16.5 of this chapter.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree,

appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, up to one hundred thirty-five dollars ($135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the later period shall be included as a part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which ~~he~~ **the employee** is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule, the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of ~~his~~ **the employee's** average weekly wages not to exceed one hundred dollars ($100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the

employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the thumb or toe and compensation shall be paid for one-half (½) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (½) the finger and compensation shall be paid for one-half (½) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (½) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (½) of the finger and compensation shall be paid for one-half (½) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by

separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2002,** for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2002, and before July 1, 2003, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars ($2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars ($2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars ($3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars ($3,906) per degree.

(10) With respect to disablements occurring on and after July 1, 2003, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars ($2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars ($3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars ($3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars ($4,531) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).
(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).
(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).
(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).
(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).
(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).
(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).
(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).
(9) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).
(10) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2002, **and before July 1, 2003,** eight hundred eighty-two dollars ($882).
(11) With respect to disablements occurring on or after July 1, 2003, nine hundred forty-eight dollars ($948).

(j) If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity ~~procured for him, he~~ **the employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9) after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

SECTION 18. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 16.1. (a) On or after January 1, 2003, if an employee who is entitled to compensation under**

this chapter either:

(1) exhausts the maximum benefits under this chapter without having received the full amount of award granted to the employee under this chapter; or

(2) exhausts the employee's benefits under this chapter;

then the employee may apply to the worker's compensation board, who may award the employee compensation from the second injury fund under IC 22-3-4-15, subject to subsection (b).

(b) An employee who has exhausted the employee's maximum benefits under this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's disablement from occupational disease, not to exceed the maximum applicable under this chapter for a period not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from an occupational disease of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(c) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

SECTION 19. IC 22-3-7-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 16.5. (a) If an employee:**

(1) suffers an occupational disease that results in a temporary total disability or a temporary partial disability; and

(2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's occupational disease;

the employee may receive disabled from trade compensation.

(b) An employee may receive disabled from trade compensation for a period not to exceed:

(1) fifty-two (52) consecutive weeks; or

(2) seventy-eight (78) aggregate weeks.

(c) An employee is entitled to receive disabled from trade compensation in a weekly amount equal to the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the employee's average weekly earnings from employment with limitations or restrictions that is entered after the employee's occupational disease, if any.

STEP TWO: Determine the employee's average weekly earnings from employment before the employee's occupational disease.

STEP THREE: Determine the greater of:

(A) the STEP TWO result minus the STEP ONE result; or

(B) zero (0).

STEP FOUR: Determine the lesser of:

(A) the STEP THREE result; or

(B) with respect to occupational diseases occurring on and after:

(1) July 1, 2002, and before July 1, 2003, eight hundred eighty-two dollars ($882); or

(2) July 1, 2003, nine hundred forty-eight dollars ($948).

(d) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

(1) an explanation of the limitations or restrictions placed on the employee;

(2) the amount of disabled from trade compensation the employee has been awarded; and

(3) information for the employee regarding the terms of this section.

(e) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(f) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (d) with the board.

SECTION 20. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars ($135); and

(B) not less than seventy-five dollars ($75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars ($156); and

(B) not less than seventy-five dollars ($75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars ($180); and

(B) not less than seventy-five dollars ($75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars ($195); and

(B) not less than seventy-five dollars ($75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars ($210); and

(B) not less than seventy-five dollars ($75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars ($234); and

(B) not less than seventy-five dollars ($75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars ($249); and

(B) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75); ~~and~~

(6) with respect to ~~disablements~~ **occupational diseases** occurring on and after July 1, 2002, **and before July 1, 2003:**

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75); **and**

(7) with respect to occupational diseases occurring on and after July 1, 2003:

(A) not more than nine hundred forty-eight dollars ($948); and

(B) not less than seventy-five dollars ($75).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars ($45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars ($52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars ($60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars ($65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars ($70,000) in any case;

(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars ($78,000) in any case; and

(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars ($83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death

occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter, **subject to section 21 of this chapter,** may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2003,** two hundred ninety-four thousand dollars ($294,000).

(7) With respect to a disability or death occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation plus one hundred (100) degrees of permanent partial impairment, both as set forth in section 16 of this chapter.

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).".

Page 16, line 12, after "offense;" insert "**or**".

Page 16, line 14, strike "knowing failure to obey a reasonable written or printed".

Page 16, strike line 15.

Page 16, line 16, strike "position in the place of work".

Page 16, line 16, delete "other than an order or regulation".

Page 16, line 17, delete "set forth in subsection (c)(2);".

Page 16, line 17, strike "or".

Page 16, line 18, delete "(4)".

Page 16, run in lines 14 through 18.

Page 16, line 18, strike "duty." and insert "**duty, other than duties relating to safety equipment and rules as set forth in subsection (b).**".

Page 16, strike line 19.

Page 16, line 25, delete "in any degree".

Page 16, line 27, delete "a".

Page 16, line 27, delete "appliance" and insert "**equipment**".

Page 16, delete lines 29 through 33, begin a new line block indented and insert:

"**(2) failure to obey a reasonable written or printed rule of the employer which has been posed in a conspicuous position in the place of work.**".

Page 16, between lines 33 and 34, begin a new paragraph and insert:

"**(d) The burden of proof is on the defendant.**

SECTION 22. IC 22-3-7-27, AS AMENDED BY P.L.235-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 27. (a) If the employer and the employee or the employee's dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

(1) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(2) The general nature and character of the illness or disease claimed.

(3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.

(4) In case of death, the date and place of death.

(5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the industrial board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of eight percent (8%) per year accruing from the date of filing of the application for adjustment of claim as determined under subsection (a).**

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid. The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

SECTION 23. IC 22-4-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed; Provided, no individual in a benefit period may file a valid claim for ~~a waiting period or~~ benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 24. IC 22-4-2-29 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit or benefits, **if applicable,** are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 25. IC 22-4-4-3, AS AMENDED BY P.L.30-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars ($3,666) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after April 1, 1984, and before April 1, 1985, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand nine hundred twenty-six dollars ($3,926) and may not include payments specified in section 2(b) of this chapter.

(c) For calendar quarters beginning on and after April 1, 1985, and before January 1, 1991, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand one hundred eighty-six dollars ($4,186) and may not include payments specified in section 2(b) of this chapter.

(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand eight hundred ten dollars ($4,810) and may not include payments specified in section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 1995, and before July 1, 1997, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand dollars ($5,000) and may not include payments specified in section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars ($5,400) and may not include payments specified in section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars ($5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars ($5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars ($6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars ($7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(k) For calendar quarters beginning on and after July 1, 2002, **and before July 1, 2003,** "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars ($7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(l) For calendar quarters beginning on and after July 1, 2003, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand five hundred dollars ($8,500) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 26. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. ~~As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits, but during which he was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. No~~ **An** individual in a benefit period may **not** file for ~~waiting period or~~ benefit period rights with respect to any subsequent period. ~~Provided, however, That no waiting period shall be required as a prerequisite for drawing extended benefits.~~ ".

Page 19, between lines 25 and 26, begin a new paragraph and insert:

SECTION 28. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for ~~waiting period or~~ benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the

individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 29. IC 22-4-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. **(a)** An individual shall be ineligible for ~~waiting period or~~ benefit rights for any week with respect to which ~~his~~ **the individual's** total or partial or part-total unemployment is due to a labor dispute at the factory, establishment, or other premises at which ~~he~~ **the individual** was last employed.

(b) This section shall not apply to an individual if:

(1) ~~he~~ **the individual** has terminated ~~his~~ **the individual's** employment, or ~~his~~ **the individual's** employment has been terminated, with the employer involved in the labor dispute; ~~or~~ ~~if~~

(2) the labor dispute which caused ~~his~~ **the individual's** unemployment has terminated and any period necessary to resume normal activities at ~~his~~ **the individual's** place of employment has elapsed; or ~~if~~

(3) all of the following conditions exist: ~~He~~

(A) The individual is not participating in or financing or directly interested in the labor dispute which caused ~~his~~ **the individual's** unemployment. ~~and he~~

(B) The individual does not belong to a grade or class of workers of which, immediately before the commencement of ~~his~~ **the individual's** unemployment, there were members employed at the same premises as ~~he,~~ **the individual,** any of whom are participating in or financing or directly interested in the dispute. ~~and he~~

(C) The individual has not voluntarily stopped working, other than at the direction of ~~his~~ **the worker's** employer, in sympathy with employees in some other establishment or factory in which a labor dispute is in progress.

(c) If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment, or other premises.

(d) Upon request of any claimant or employer involved in an issue arising under this section, the deputy shall, and in any other case the deputy may, refer claims of individuals with respect to whom there is an issue of the application of this section to an administrative law judge who shall make the initial determination with respect thereto, in accordance with the procedure in IC 22-4-17-3.

(e) Notwithstanding any other provisions of this article, an individual shall not be ineligible for ~~waiting period or~~ benefit rights under this section solely by reason of ~~his~~ **the individual's** failure or refusal to apply for or to accept recall to work or reemployment with an employer during the continuance of a labor dispute at the factory, establishment, or other premises of the employer, if the individual's last separation from the employer occurred prior to the start of the labor dispute and was permanent or for an indefinite period.

SECTION 30. IC 22-4-15-4, AS AMENDED BY P.L.290-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) An individual ~~shall be~~ **is** ineligible for ~~waiting period or~~ benefit rights for any week with respect to which the individual receives, is receiving, or has received payments equal to or exceeding ~~his~~ **the individual's** weekly benefit amount in the form of:

(1) deductible income as defined and applied in IC 22-4-5-1 and IC 22-4-5-2; or

(2) any pension, retirement or annuity payments, under any plan of an employer whereby the employer contributes a portion or all of the money. This disqualification shall apply only if some or all of the benefits otherwise payable are chargeable to the experience or reimbursable account of ~~such~~ **the** employer, or would have been chargeable except for the application of this chapter. For ~~the~~ purposes of this subdivision, ~~(2),~~ federal old age, survivors, and disability insurance benefits are not considered payments under a plan of an employer whereby the employer maintains the plan or contributes a portion or all of the money to the extent required by federal law.

(b) If the payments described in subsection (a) are less than ~~his~~ **the individual's** weekly benefit amount, an otherwise eligible individual ~~shall~~ **is** not ~~be~~ ineligible and shall be entitled to receive for such week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

SECTION 31. IC 22-4-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Except as provided in IC ~~1971,~~ 22-4-22, an individual ~~shall be~~ **is** ineligible for ~~waiting period or~~ benefit rights for any week with respect to which or a part of which ~~he~~ **the individual** receives, is receiving, has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. ~~Provided, that~~ **However,** this disqualification shall not apply if the appropriate agency of such other state or of the United States finally determines that ~~he~~ **the individual** is not entitled to such employment benefits, including benefits to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85.

SECTION 32. IC 22-4-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. Notwithstanding any other provisions of this article, if an individual knowingly fails to disclose amounts earned during any week in ~~his waiting period,~~ **the individual's** benefit period or extended benefit period with respect to which benefit rights or extended benefit rights are claimed, or knowingly fails to disclose or has falsified as to any fact ~~which~~ **that** would have disqualified ~~him~~ **the individual** or rendered ~~him~~ **the individual** ineligible for benefits or extended benefits or would have reduced ~~his~~ **the individual's** benefit rights or extended benefit rights during such a week, all of ~~his~~ **the individual's** wage credits established prior to the week of the falsification or failure to disclose shall be ~~cancelled,~~ **canceled,** and any benefits or extended benefits ~~which~~ **that** might otherwise have become payable to ~~him~~ **the individual** and any benefit rights or extended benefit rights based upon those wage credits shall be forfeited.

SECTION 33. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished ~~him~~ **to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within twenty (20) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within twenty (20) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within twenty (20) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims ~~waiting period credit or~~ benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for ~~waiting period credit or~~ benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within twenty (20) days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within twenty-five (25) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~No~~ **A** person may **not** participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.".

Page 24, delete line 39.

Renumber all SECTIONS consecutively.

(Reference is to ESB 71 as printed February 22, 2002.)

LIGGETT

Representative Espich rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. Representative Espich withdrew the point of order.

The question then was on the amendment of Representative Liggett (71–2). Upon request of Representatives Kruzan and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 190: yeas 56, nays 38. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 366

Representative Kruzan called down Engrossed Senate Bill 366 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 366–1)

Mr. Speaker: I move that Engrossed Senate Bill 366 be amended to read as follows:

Page 4, line 16, delete "(a)".

Page 4, delete lines 19 through 34.

(Reference is to ESB 366 as printed February 22, 2002.)

KRUZAN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 97

Representative C. Brown called down Engrossed Senate Bill 97 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 97–2)

Mr. Speaker: I move that Engrossed Senate Bill 97 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5.5. (a) This section applies to:**

(1) a person engaged in business as:

(A) a brewer; or

(B) an importer;

of beer or malt beverages; or

(2) an affiliate of a person described in subdivision (1).

(b) A person described in subsection (a) may designate an area of primary responsibility for aa beer wholesaler. However, the beer wholesaler may make sales in counties contiguous to the counties in which the beer wholesaler's designated area of primary responsibility is located in addition to selling in the area of primary responsibility.

(c) This section applies to a beer wholesaler with a business domiciled in a county having a population of more than seventeen thousand five hundred (17,500) but less than eighteen thousand (18,000) and or in a county having a population of more than thirty-six thousand seventy-five (36,075) but less than thirty-seven thousand (37,000).".

Renumber all SECTIONS consecutively.

(Reference is to ESB 97 as printed February 22, 2002.)

FRIEND

After discussion, Representative Friend withdrew the amendment.

HOUSE MOTION
(Amendment 97–1)

Mr. Speaker: I move that Engrossed Senate Bill 97 be amended to read as follows:

Page 2, line 1, delete "processed" and insert "**returned to the wholesaler**".

(Reference is to ESB 97 as printed February 22, 2002.)

ALDERMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 99

Representative Weinzapfel called down Engrossed Senate Bill 99 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 99–1)

Mr. Speaker: I move that Engrossed Senate Bill 99 be amended to read as follows:

Page 2, line 30, delete "sewage, treated or untreated," and insert "**treated sewage**".

Page 4, delete lines 2 through 9.

Page 4, line 12, delete "(a)".

Page 4, delete lines 29 through 42.

Page 5, delete line 1.

Page 14, line 30, delete "sewage, treated or" and insert "**treated sewage**".

Page 14, line 31, delete "untreated,".

Renumber all SECTIONS consecutively.

(Reference is to ESB 99 as printed February 22, 2002.)

WEINZAPFEL

Motion prevailed.

HOUSE MOTION
(Amendment 99–3)

Mr. Speaker: I move that Engrossed Senate Bill 99 be amended to read as follows:

Page 4, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 5. IC 13-18--13-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. There is annually appropriated to the clean water Indiana fund established by IC 14-32-8-6 five million dollars ($5,000,000) from the wastewater revolving loan fund for its use in carrying out the purposes of the clean water Indiana fund under IC 14-32-8.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 99 as printed February 22, 2002.)

FRIEND

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 99–2)

Mr. Speaker: I move that Engrossed Senate Bill 99 be amended to read as follows:

Page 11, line 40, delete "The" and insert "**(a) Except as provided in subsection (b), the**".

Page 12, between lines 3 and 4, begin a new paragraph and insert:

"**(b) In:**

(1) a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

rates and charges may be imposed or changed under this chapter only after approval by the county legislative body.".

(Reference is to ESB 99 as printed February 22, 2002.)

FRY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 107

Representative Becker called down Engrossed Senate Bill 107 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 107–1)

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 2, delete lines 9 through 38.

Page 4, line 21, delete "The" and insert "**Except for a federal Medicaid waiver,** the".

Page 4, line 35, after "review" insert "**, approve,**".

Page 4, line 39, delete "must provide unrestricted" and insert "**may**

only limit".

Page 4, line 40, after "program" insert "**to the extent that restrictions are in place in the Medicaid program as of June 30, 2002**".

Page 4, delete lines 41 through 42.

Page 5, delete lines 1 through 6.

Page 5, line 7, delete "(b)" and insert "**(d)**".

Page 5, line 9, delete "to fund" and insert "**under the federal Medicaid program to provide**".

Page 5, line 9, delete "under the Indiana" and insert "**to low income Indiana residents.**".

Page 5, delete lines 10 through 11.

Page 5, between lines 11 and 12, begin a new paragraph and insert:

"**(e) Any waiver developed under the Medicaid program must limit the program's state expenditures to funding appropriated for the Indiana prescription drug program from the Indiana tobacco master settlement fund.**".

Page 5, line 12, delete "(c)" and insert "**(f)**".

Page 5, line 17, delete "(d)" and insert "**(g)**".

Page 5, line 19, delete "(c)" and insert "**(f)**".

Page 5, between lines 21 and 22, begin a new paragraph and insert:

"**(h) This SECTION expires December 31, 2004.**".

Page 5, line 22, delete "[EFFECTIVE JULY 1, 2002]" and insert "[EFFECTIVE UPON PASSAGE]".

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 22, 2002.)

C. BROWN

Motion prevailed.

HOUSE MOTION
(Amendment 107–2)

Mr. Speaker: I move that Engrossed Senate Bill 107 be amended to read as follows:

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 4. IC 25-26-13-25, AS AMENDED BY P.L.270-2001, SECTION 4, AND AS AMENDED BY P.L.288-2001, SECTION 4, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) *Except as provided in subsection (c) before the expiration of subsection (c) on June 30, 2003,* a prescription for any drug, the label of which bears *either* the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) *A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:*

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill". This subsection expires June 30, 2003.

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

~~*(d)*~~ *(e)* The original prescription form or the other board approved record described in subsection ~~*(c)*~~ *(d)* must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

~~*(e)*~~ *(f)* A prescription is valid for not more than one (1) year after the original date of ~~*filling. issue.*~~ **filling.**

~~*(f)*~~ *(g)* A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

~~*(g)*~~ *(h)* A pharmacist may not knowingly dispense a prescription after the demise of the patient.

~~*(h)*~~ *(i)* A pharmacist or a pharmacy shall not ~~*accept medication*~~

resell, reuse, or redistribute a medication that is returned ~~*for resale or redistribution*~~ *to the pharmacy after being dispensed* unless the medication:

(1) was dispensed to a patient residing in an institutional facility (as defined in 856 IAC 1-28-1(a));

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as defined in IC 25-26-13-17).

~~*(i)*~~ *(j)* A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection (h).

(k) A pharmacist who violates subsection (c) commits a Class A infraction.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 107 as printed February 22, 2002.)

T. BROWN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 248

Representative Sturtz called down Engrossed Senate Bill 248 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 248–1)

Mr. Speaker: I move that Engrossed Senate Bill 248 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-8-11-10 IS AMENDED TO READ AS FOLLOWS: Sec. 10. (a) This chapter does not limit:

(1) the right to assign, mortgage, or pledge the rents and profits arising from real estate;

(2) the right of an assignee, a mortgagee, or a pledgee to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge; or

(3) the power of a court of equity to appoint a receiver to take charge of real estate to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge.

(b) A person may enforce an assignment, a mortgage, or a pledge of rents and profits arising from real property:

(1) whether the person has or does not have possession of the real estate; and

(2) regardless of the:

(A) adequacy of the security; or

(B) solvency of the assignor, mortgagor, or pledgor.

(c) If a person:

(1) enforces an assignment, a mortgage, or a pledge of rents and profits arising from real estate; and

(2) does not have possession of the real estate;

the obligations of a mortgagee in possession of real estate may not be imposed on the holder of the assignment, mortgage, or pledge.

(d) A mortgagee seeking equitable subrogation with respect to a lien may not be denied equitable subrogation solely because:

(1) the mortgagee:

(A) is engaged in the business of lending; and

(B) had constructive notice of the intervening lien over which the mortgagee seeks to assert priority;

(2) the lien for which the mortgagee seeks to be subrogated was released; or

(3) the mortgagee obtained a title insurance policy."

Page 3, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 3. IC 32-8-15.5-17, AS ADDED BY P.L.207-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS: Sec. 17. (a) This chapter applies to the release of a mortgage after June 30, 2001, and before July 1, ~~2002,~~ **2003;** regardless of when the mortgage was created or assigned.

(b) This chapter expires July 1, 2003."

Renumber all SECTIONS consecutively.

(Reference is to ESB 248 as printed February 22, 2002.)

FOLEY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 228

Representative C. Brown called down Engrossed Senate Bill 228 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 228–1)

Mr. Speaker: I move that Engrossed Senate Bill 228 be amended to read as follows:

Page 7, between lines 40 and 41, begin a new line block indented and insert:

"**(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.**".

Page 7, line 41, delete "(12)" and insert "**(13)**".

Page 8, line 3, delete "(13)" and insert "**(14)**".

Page 13, line 13, delete "7" and insert "**8**".

(Reference is to ESB 228 as printed February 22, 2002.)

C. BROWN

Motion prevailed.

HOUSE MOTION
(Amendment 228–2)

Mr. Speaker: I move that Engrossed Senate Bill 228 be amended to read as follows:

Page 14, line 31, after "Pediatrics" insert "**or the American Academy of Child and Adolescent Psychiatry**".

(Reference is to ESB 228 as printed February 22, 2002.)

PELATH

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 246

Representative Crawford called down Engrossed Senate Bill 246 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 246–1)

Mr. Speaker: I move that Engrossed Senate Bill 246 be amended to read as follows:

Page 11, line 42, delete "licensed under IC 12-17.2-4;" and insert "**as defined in IC 12-7-2-28.4;**".

Page 12, line 1, delete "licensed under IC 12-17.2-5." and insert "**as defined in IC 12-7-2-28.6;**".

Page 12, between lines 1 and 2, begin a new line blocked left and insert:

"**regardless of whether the child care center or child care home is licensed.**".

(Reference is to ESB 246 as printed February 22, 2002.)

BUDAK

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 249

Representative Hasler called down Engrossed Senate Bill 249 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 249–1)

Mr. Speaker: I move that Engrossed Senate Bill 249 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new

paragraph and insert:

"SECTION 1. IC 6-1.1-10-42 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: **Sec. 42. (a) A corporation that is:**

(1) nonprofit; and

(2) participates in the small business incubator program under IC 4-4-18;

is exempt from property taxation to the extent of tangible property used for small business incubation.

(b) A corporation that wishes to obtain an exemption from property taxation under this section must file an exemption application under IC 6-1.1-11.".

Page 3, after line 6, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)] **(a) IC 6-1.1-10-42, as added by this act, applies only to property taxes first due and payable after December 31, 2000.**

(b) This SECTION expires January 1, 2003.

SECTION 5. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 249 as printed February 22, 2002.)

HASLER

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 252

Representative Weinzapfel called down Engrossed Senate Bill 252 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 252–1)

Mr. Speaker: I move that Engrossed Senate Bill 252 be amended to read as follows:

Page 7, line 4, reset in roman "This subsection applies only to a trust executed after June 30,".

Page 7, line 5, reset in roman "1996.".

Page 7, line 15, after "trustee" delete "." and insert ";".

Page 7, reset in roman line 16.

(Reference is to ESB 252 as printed February 22, 2002.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 276

Representative Crooks called down Engrossed Senate Bill 276 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 276–1)

Mr. Speaker: I move that Engrossed Senate Bill 276 be amended to read as follows:

Page 4, between lines 30 and 31, begin a new paragraph and insert:

"**Sec. 22. An insurance producer or an insurer shall not obtain credit information on an insured or an applicant without giving sufficient notice and obtaining the written approval of the insured or the applicant. The written approval of the insured or the applicant shall be valid for all subsequent requests for credit information while insured by the same insurer unless revoked in writing by the insured or the applicant.**"

(Reference is to ESB 276 as printed February 19, 2002.)

BURTON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 277

Representative Crooks called down Engrossed Senate Bill 277 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 277–3)

Mr. Speaker: I move that Engrossed Senate Bill 277 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8.1-6, AS ADDED BY P.L.162-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The administrator shall pay or deny each clean claim in accordance with section 7 of this chapter.

(b) An administrator shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of an administrator to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim.".

Page 3, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 4. IC 27-8-5.7-5, AS ADDED BY P.L.162-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An insurer shall pay or deny each clean claim in accordance with section 6 of this chapter.

(b) An insurer shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of an insurer to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim.".

Page 3, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 6. IC 27-13-36.2-3, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A health maintenance organization shall pay or deny each clean claim in accordance with section 4 of this chapter.

(b) A health maintenance organization shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of a health maintenance organization to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim.

SECTION 7. IC 27-13-36.2-4, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A health maintenance organization shall pay or deny each clean claim as follows:

(1) If the claim is filed electronically, not ~~less~~ **more** than thirty (30) days after the date the claim is received by the health maintenance organization.

(2) If the claim is filed on paper, not ~~less~~ **more** than forty-five (45) days after the date the claim is received by the health maintenance organization.

(b) If:

(1) a health maintenance organization fails to pay or deny a clean claim in the time required under subsection (a); and

(2) the health maintenance organization subsequently pays the claim;

the health maintenance organization shall pay the provider that submitted the claim interest on the lesser of the usual, customary, and reasonable charge for the health care services provided to the enrollee or an amount agreed to between the health maintenance organization and the provider paid under this section.

(c) Interest paid under subsection (b):

(1) accrues beginning:

(A) thirty-one (31) days after the date the claim is filed under subsection (a)(1); or

(B) forty-six (46) days after the date the claim is filed under subsection (a)(2); and

(2) stops accruing on the date the claim is paid.

(d) In paying interest under subsection (b), a health maintenance organization shall use the same interest rate as provided in IC 12-15-21-3(7)(A).".

Renumber all SECTIONS consecutively.

(Reference is to ESB 277 as printed February 19, 2002.)

CROOKS

Motion prevailed.

HOUSE MOTION
(Amendment 277–1)

Mr. Speaker: I move that Engrossed Senate Bill 277 be amended to read as follows:

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"**(e) An insurer shall not obtain credit information on an insured or an applicant without giving sufficient notice and obtaining the written approval of the insured or the applicant. The written approval of the insured or the applicant shall be valid for all subsequent requests for credit information while insured by the insurer unless revoked in writing by the insured or the applicant.**"

(Reference is to ESB 277 as printed February 19, 2002.)

BURTON

Motion prevailed. The bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed Senate Bill 290

Representative Porter called down Engrossed Senate Bill 290 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 290–1)

Mr. Speaker: I move that Engrossed Senate Bill 290 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 21-3-11-8, AS AMENDED BY P.L.291-2001, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) **Except as provided in subsection (b),** the department of education shall distribute a grant under this chapter to a qualifying school corporation ~~not later than~~ not later than March 1. The grant shall be for the number of full-time equivalent students enrolled in and attending an alternative education program from January 1 through December 31 of the immediately preceding year and reported to the department of education under section 7 of this chapter.

(b) Notwithstanding subsection (a), the department of education may authorize additional distributions for approved programs if the aggregate amount of the distributions to a school corporation during a school year under this subsection does not exceed a maximum amount of seven hundred fifty dollars ($750) per full-time equivalent student reported under section 7 of this chapter.".

Page 2, between lines 6 and 7, begin a new line block indented and insert:

"**(9) A member of the house of representatives, appointed by the speaker of the house of representatives.**

(10) A member of the senate, appointed by the president pro tempore of the senate.

(11) A representative of a community mental health center, appointed by the governor.".

Page 2, line 7, delete "(9)" and insert "**(12)**".

Page 2, line 9, delete "(10)" and insert "**(13)**".

Page 2, line 9, delete "state superintendent" and insert "**governor.**".

Page 2, delete line 10.

Renumber all SECTIONS consecutively.

(Reference is to ESB 290 as printed February 22, 2002.)

PORTER

Motion prevailed.

HOUSE MOTION
(Amendment 290–2)

Mr. Speaker: I move that Engrossed Senate Bill 290 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-10.1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 30. High School Diploma Program for Eligible Veterans

Sec. 1. As used in this chapter, "department of veterans' affairs" refers to the Indiana department of veterans' affairs established by IC 10-5-1-3.

Sec. 2. As used in this chapter, "diploma" refers to a high school diploma.

Sec. 3. As used in this chapter, "eligible veteran" refers to an individual who has the following qualifications:

(1) Served as a member of the armed forces of the United States at any time during at least one (1) of the following periods:

(A) Beginning April 6, 1917, and ending November 11, 1918 (World War I).

(B) Beginning December 7, 1941, and ending December 31, 1946 (World War II).

(C) Beginning June 25, 1950, and ending January 31, 1955 (Korean Conflict).

(D) Beginning February 28, 1961, and ending May 7, 1975 (Viet Nam Conflict).

(2) Before the military service described in subdivision (1):

(A) attended public or nonpublic high school in Indiana; and

(B) was a student in good standing at the high school described in clause (A), to the satisfaction of the department of veterans' affairs.

(3) Did not graduate or receive a diploma because of leaving the high school described in subdivision (2) for the military service described in subdivision (1).

(4) Was honorably discharged from the armed forces of the United States.

Sec. 4. As used in this chapter, "program" applies to the high school diploma program for eligible veterans established by section 6 of this chapter.

Sec. 5. As used in this chapter, "school corporation" includes a successor school corporation serving the area where a high school that no longer exists was once located.

Sec. 6. The high school diploma program for eligible veterans is established to provide for the issuance of high school diplomas to certain veterans.

Sec. 7. The department and the department of veterans' affairs shall jointly design a form for the application for issuance of a diploma under the program. The application form shall require at least the following information about an eligible veteran:

(1) Personal identification information.

(2) Military service information, including a copy of the eligible veteran's honorable discharge.

(3) High school information, including the following:

(A) Name and address, including county, of the last high school attended.

(B) Whether the high school was a public or nonpublic school.

(C) Years attended.

(D) Year of leaving high school to begin military service.

(E) Year in which the veteran would have graduated if the veteran had not left high school to begin military service.

(4) If the high school attended was a public school, whether the veteran prefers receiving a diploma issued by:

(A) the board; or

(B) the governing body of the school corporation governing the high school.

Sec. 8. The department of veterans' affairs shall do the following for individuals that the department of veterans' affairs has reason to believe may be eligible to apply for a diploma under the program:

(1) Give notice of the program.

(2) Describe the application procedure.

(3) Furnish an application form.

Sec. 9. The following individuals may apply for the issuance of a diploma to an eligible veteran under the program:

(1) An eligible veteran, including an eligible veteran who has received a general education development diploma or a similar diploma.

(2) An individual who is:

(A) the surviving spouse of; or

(B) otherwise related to;

an eligible veteran who is deceased.

Sec. 10. An applicant for a diploma under the program must submit a completed application form to the department of veterans' affairs.

Sec. 11. Upon receipt of an application, the department of veterans' affairs shall do the following:

(1) Verify the accuracy of the information in the application, in consultation with the department, if necessary.

(2) Forward the verified application to the department.

Sec. 12. Upon receipt of a verified application, the department shall do the following:

(1) If the applicant:

(A) expresses a preference in the application to receive a diploma issued by the board; or

(B) attended a nonpublic high school before leaving high school for military service;

the department shall present a diploma issued by the board.

(2) If the applicant expresses a preference for receiving a diploma from the governing body of the school corporation containing the public high school that the eligible veteran left for military service, the department shall direct the governing body of the affected school corporation to issue and present the diploma.

Sec. 13. (a) The department and governing bodies are encouraged but are not required to hold a ceremony to present a diploma that is issued under the program.

(b) Upon request of a governing body, the department, in cooperation with the department of veterans' affairs, shall assist the governing body to develop a variety of formats for appropriate ceremonies at which to award diplomas under the program.

Sec. 14. (a) The board shall design a unique commemorative diploma for the board to issue to eligible veterans who:

(1) attended a public high school and express in the application a preference for receiving a diploma that the board issues; or

(2) attended a nonpublic high school.

(b) The board shall design a unique commemorative diploma that a governing body may choose to issue under the program.

Sec. 15. (a) A governing body may design a unique commemorative diploma for the governing body to issue under the program.

(b) A governing body that issues a diploma under the program shall issue one (1) of the following types of diplomas:

(1) The diploma described in subsection (a).

(2) The diploma designed by the board under section 14(b) of this chapter.

(3) The same diploma that the governing body issues to current graduates.

Sec. 16. The department and the department of veterans' affairs shall work cooperatively to jointly administer this chapter.

Sec. 17. A fee may not be charged to process an application or to award a diploma under this chapter.

Sec. 18. The department and the department of veterans' affairs may adopt rules under IC 4-22-2 to implement this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 290 as printed February 22, 2002.)

FRIZZELL

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 318

Representative Klinker called down Engrossed Senate Bill 318 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 318–1)

Mr. Speaker: I move that Engrossed Senate Bill 318 be amended to read as follows:

Page 10, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 6. IC 36-7-14-39.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 39.3. (a) As used in this section, "depreciable personal property" refers to:

(1) all of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area.

(b) As used in this section, "designated taxpayer" means any taxpayer designated by the commission in a declaratory resolution adopted or amended under section 15 or 17.5 of this chapter, and with respect to which the commission finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed **for one (1) or more of the following purposes:**

(1) To pay debt service or to provide security for bonds issued under section 25.1 of this chapter or to make payments or to provide security on leases payable under section 25.2 of this chapter in order to provide local public improvements for a particular allocation area.

(2) To reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(A) in the allocation area; and

(B) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent under this subdivision in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this subdivision. Reimbursements under this subdivision must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

However, a commission may not designate a taxpayer after June 30, 1992, unless the commission also finds that ~~(1)~~ the taxpayer's property in the allocation area will consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects, and ~~(2)~~ the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 39(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 39 of this chapter. If such a modification is included in the resolution, for purposes of

section 39 of this chapter the term "base assessed value" with respect to the depreciable personal property means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding:

(1) the effective date of the modification, for modifications adopted before July 1, 1995; and

(2) the adoption date of the modification for modifications adopted after June 30, 1995;

as adjusted under section 39(h) of this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 318 as printed February 22, 2002.)

HARRIS

Motion prevailed. The bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed Senate Bill 333

Representative Lytle called down Engrossed Senate Bill 333 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 333–31)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 12, line 3, after "admitted" insert "**to the**".

Page 41, between lines 27 and 28, begin a new line block indented and insert:

"**(8) The remainder of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to county treasurer of each county described in subsection (j) according to the ratio the population of each county bears to the total population of the counties that do not have a riverboat licensed under this article.**".

Page 44, line 6, after "IC 4-33-12-6(b)(1)(A);" insert "**or**".

Page 44, strike lines 7 through 9.

Page 44, line 10, strike "(C)" and insert "**(B)**".

Page 53, line 42, after "other" insert "**related**".

Page 55, after line 14, begin a new paragraph and insert:

"SECTION 77. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

LYTLE

Motion prevailed.

HOUSE MOTION
(Amendment 333–29)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 27, line 33, delete "and".

Page 27, line 38, after "riverboat" delete "." and insert "**; and**".

Page 27, between lines 38 and 39, begin a new line block indented and insert:

"**(4) conduct gambling games authorized under this article on a permanently moored vessel located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) at the discretion of the commission.**".

(Reference is to ESB 333 as printed February 22, 2002.)

PELATH

The Speaker ordered a division of the House and appointed Representatives Kruzan and Bosma to count the yeas and nays. Yeas 50, nays 37. Motion prevailed.

HOUSE MOTION
(Amendment 333–2)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 45, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 62. IC 4-33-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. If the commission determines that the provisions of this chapter relating to expenditures and assignments to minority and women's business enterprises have not been met by a licensee, the commission may suspend, limit, or revoke the owner's license ~~or fine~~ or impose **a civil penalty or** appropriate conditions on the licensee to ensure that the goals for expenditures and assignments to minority and women's business enterprises are met. However, if a determination is made that a person holding an owner's license has failed to demonstrate compliance with this chapter, the person has ninety (90) days from the date of the determination of noncompliance to comply.

SECTION 63. IC 4-33-14-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 11. The commission shall deposit civil penalties imposed under section 6 of this chapter in the minority and women business participation fund established by section 12 of this chapter.**

SECTION 64. IC 4-33-14-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 12. (a) The minority and women business participation fund is established to assist minority and women business enterprises. The fund shall be administered by the commission. The fund consists of civil penalties imposed by the commission under section 6 of this chapter.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

SUMMERS

Motion prevailed.

HOUSE MOTION
(Amendment 333–21)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 30, line 39, delete "and IC 4-33-9-17".

Page 37, delete lines 23 through 36.

Page 53, line 42, after "other" insert "**related**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

DENBO

Upon request of Representatives Becker and Buell, the Speaker ordered the roll of the House to be called. Roll Call 191: yeas 53, nays 40. Motion prevailed.

HOUSE MOTION
(Amendment 333–6)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 37, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 53. IC 4-33-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) All tokens, chips, or electronic cards that are used to make wagers must be purchased from the owner of the riverboat:

(1) while on board the riverboat; or

(2) at an on-shore facility that:

(A) has been approved by the commission; and

(B) is located where the riverboat docks.

(b) The tokens, chips, or electronic cards may be purchased by means of an agreement under which the owner extends credit to the patron.

(c) A licensed owner may not seek treble damages in an action to collect a gambling debt incurred under this section.".

Page 37, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 55. IC 4-33-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **(a)** A person who knowingly or intentionally:

(1) makes a false statement on an application submitted under this article;

(2) operates a ~~gambling excursion~~ **riverboat** in which wagering is conducted or is to be conducted in a manner other than the manner required under this article;

(3) permits a person less than twenty-one (21) years of age to make a wager;

(4) wagers or accepts a wager at a location other than a riverboat; ~~or~~

(5) makes a false statement on an application submitted to the commission under this article; **or**

(6) aids, induces, or causes a person less than twenty-one (21) years of age who is not an employee of the riverboat gambling operation to enter or attempt to enter a riverboat;

commits a Class A misdemeanor.

(b) A person who:

(1) is not an employee of the riverboat operation;

(2) is less than twenty-one (21) years of age; and

(3) knowingly or intentionally enters or attempts to enter a riverboat;

commits a Class A misdemeanor.".

Page 47, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 67. IC 5-14-3-4, AS AMENDED BY P.L.201-2001, SECTION 1, AND AS AMENDED BY P.L.271-2001, SECTION 1, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Social Security number.

(C) Address.

~~*(11)*~~ **(12)** *A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.*

(13) Information submitted to the Indiana gaming commission under IC 4-33-8-5.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.".

Page 48, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 69. IC 34-24-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **(a)** If a person suffers a pecuniary loss as a result of a violation of IC 35-43, IC 35-42-3-3, IC 35-42-3-4, or IC 35-45-9, the person may bring a civil action against the person who caused the loss for the following:

(1) **Except as provided in subsection (b),** an amount not to exceed three (3) times the actual damages of the person suffering the loss.

(2) The costs of the action.

(3) A reasonable attorney's fee.

(4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:

(A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

(B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.

(5) A reasonable amount to compensate the person suffering loss for time used to:

(A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

(B) travel to and from activities described in clause (A).

(6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:

(A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or

(B) travel to and from activities described in clause (A).

(7) All other reasonable costs of collection.

(b) The owner of a riverboat licensed under IC 4-33, or the owner's assignee, who suffers a pecuniary loss as the result of a violation of IC 35-43-5-5 is entitled to the actual damages resulting from the violation. In addition, the owner or the owner's assignee is entitled to the amounts described in subsection (a)(2) through (a)(7).".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

KUZMAN

Motion prevailed.

HOUSE MOTION
(Amendment 333–30)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 13, between lines 29 and 30, begin a new paragraph and insert:

"**Sec. 18. (a) As used in this section, "net receipts" means a permit holder's adjusted gross receipts, minus any taxes paid under section 11 of this chapter.**

(b) Beginning January 1 following the second anniversary of the date that the sale of pari-mutuel pull tab tickets begins at a location described in this chapter and every year thereafter, the permit holder shall pay the percentage of the permit holder's net receipts set forth in subsection (c) to the commission for purse money and breed development.

(c) Beginning January 1 of the following years of operation, the purse money and breed development fee is equal to the following percentages of the permit holder's net receipts:

Year 3	**2%**
Year 4	**2%**
Year 5	**4%**
Year 6	**6%**
Year 7	**7%**
Year 8	**8%**
Year 9	**9%**
Year 10 and each year thereafter	**10%**

(d) The commission shall allocate money received under this section to purses and breed development.".

Page 13, line 30, delete "18." and insert "**19.**".

Page 13, line 36, delete "19." and insert "**20.**".
Page 13, line 40, delete "20." and insert "**21.**".
Page 40, line 10, delete "Sixty-five" and insert "**Except as provided in subsection (k),** sixty-five".
Page 40, line 18, strike "a" and insert "**each**".
Page 40, line 18, strike "was" and insert "**has been**".
Page 40, line 19, after "The" insert "**Indiana horse racing**".
Page 40, line 21, strike "the" and insert "**a**".
Page 40, line 24, after "schedule." insert "**If a permit holder sells pull tabs at a racetrack or satellite facility, the maximum amount that the Indiana horse racing commission may grant for routine operations at the permit holder's racetrack is equal to:**

(i) the total amount granted under this section in a calendar year to a racetrack operated by a permit holder under a recognized meeting permit first issued before January 1, 2002; minus

(ii) the total adjusted gross receipts reported by a permit holder under IC 4-31-7.5-11 for the twelve (12) months immediately preceding the date on which the grant is distributed.

(C) To county and 4-H fairs for the maintenance and operation of horse racing facilities.

The maximum amount paid to the Indiana horse racing commission under this subdivision in a state fiscal year may not exceed twenty-six million dollars ($26,000,000), minus the amount, if any, paid to the Indiana horse racing commission under IC 4-31-7.5-18.".

Page 43, between lines 8 and 9, begin a new paragraph and insert:

"**(k) After the Indiana horse racing commission is paid the maximum amount of admissions taxes allowed under subsection (b)(6), the remainder of that part of the admissions tax that is described in subsection (b)(6) shall be paid to the state general fund.**".

(Reference is to ESB 333 as printed February 22, 2002.)

RESKE

Motion prevailed.

HOUSE MOTION
(Amendment 333–23)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 44, line 14, delete "Seventy-five" and insert "**Except as provided in subsection (d),** seventy-five".
Page 45, line 20, delete "Seventy-five" and insert "**Except as provided in subsection (d), seventy-five**".
Page 45, between lines 21 and 22, begin a new paragraph and insert:

"**(d) This subsection applies only to a riverboat that is subject to subsections (a) and (c). On July 15, 2003, and each year thereafter, the department shall compare the amount of riverboat admissions taxes paid to a unit of local government under IC 4-33-12-6(b)(1) or IC 4-33-12-6(b)(2) during the previous state fiscal year to the amount of admissions taxes paid to the unit during the state fiscal year that ended June 30, 2002. If the department determines that the amount of admissions taxes paid to a unit during a state fiscal year is less than the amount of admissions taxes paid to the unit during the state fiscal year that ended June 30, 2002, the treasurer of state shall make supplemental payments to the unit from the taxes remitted under this chapter until the amount of the unit's shortfall is paid. The payments required under this subsection are in addition to the payments required in subsection (a)(1) or (c)(2)(A). The payments required under this subsection must be made from the amount of taxes remitted under this chapter that would otherwise be paid to the build Indiana fund lottery and gaming surplus account under subsection (a)(2) or (c)(2)(B).**".

(Reference is to ESB 333 as printed February 22, 2002.)

BISCHOFF

Upon request of Representatives Espich and Buck, the Speaker ordered the roll of the House to be called. Roll Call 192: yeas 9, nays 81. Motion failed.

HOUSE MOTION
(Amendment 333–5)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 47, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 64. IC 4-33-18 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 18. Reimbursement of Health Care Costs

Sec. 1. A licensed owner shall reimburse state and local governments the costs of health care services provided to the licensed owner's riverboat employees and the dependents of the riverboat employees and paid for under:

(1) Medicaid (IC 12-15);

(2) the children's health insurance program (IC 12-17.6);

(3) the hospital care for the indigent program (IC 12-16.1); or

(4) township poor relief (IC 12-20).

Sec. 2. The state or local governmental entity paying the costs of the health care services provided to the riverboat employee shall submit a statement of the costs for which the entity seeks reimbursement to the licensed owner within thirty (30) days after paying the costs.

Sec. 3. If the licensed owner fails to pay the amount due on the statement described in section 2 of this chapter within thirty (30) days after the licensed owner's receipt of the statement, interest shall accrue on the amount due at the rate of eight percent (8%) per annum.

Sec. 4. A licensed owner is relieved of the duty to reimburse a state or local governmental entity of the costs described in section 1 of this chapter if the licensed owner demonstrates to the satisfaction of the governmental entity that the licensed owner has made health insurance available to the riverboat employee and the riverboat employee's dependents at a total cost, including premiums, deductibles, and copayments, to the riverboat employee of less than three percent (3%) of the riverboat employee's gross income.

Sec. 5. A licensed owner may not retaliate or discriminate against a riverboat employee that seeks or receives health care services that incur costs that may be reimbursed under this chapter.

Sec. 6. If a riverboat employee is the object of an act of retaliation or discrimination by the licensed owner that is prohibited by section 5 of this chapter, the riverboat employee shall have a right of action against the licensed owner for compensatory and punitive damages. A riverboat employee is entitled to recover reasonable attorney's fees if the employee obtains a judgment against the licensed owner under this section.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

CHENEY

Upon request of Representatives Buck and Turner, the Speaker ordered the roll of the House to be called. Roll Call 193: yeas 69, nays 23. Motion prevailed.

HOUSE MOTION
(Amendment 333–8)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 40, line 10, delete "Sixty-five" and insert "**Except as provided in subsections (k) through (m),** sixty-five".

Page 43, between lines 8 and 9, begin a new paragraph and insert:

"**(k) For riverboat admissions taxes collected after December 31, 2002, and before January 1, 2004, the amount paid to the Indiana horse racing commission under subsection (b)(6) must be reduced by the following amounts:**

(1) One million dollars ($1,000,000) that must be paid to the Indiana School for the Blind.

(2) One million dollars ($1,000,000) that must be paid to the Indiana School for the Deaf.

(3) The remainder of admissions taxes described in subsection (b)(6), multiplied by one-third (1/3). The amount determined under this subdivision must be paid to the state general fund.

(l) For riverboat admissions taxes collected after December 31, 2003, and before January 1, 2005, the amount paid to the Indiana horse racing commission under subsection (b)(6) must be reduced by the following amounts:

(1) Two million dollars ($2,000,000) that must be paid to the Indiana School for the Blind.

(2) Two million dollars ($2,000,000) that must be paid to the Indiana School for the Deaf.

(3) The remainder of admissions taxes described in subsection (b)(6), multiplied by two-thirds (2/3). The amount determined under this subdivision must be paid to the state general fund.

(m) For riverboat admissions taxes collected after December 31, 2004, the amount described in subsection (b)(6) must be paid as follows instead of to the Indiana horse racing commission:

(1) Three million dollars ($3,000,000) that must be paid to the Indiana School for the Blind.

(2) Three million dollars ($3,000,000) that must be paid to the Indiana School for the Deaf.

(3) The remainder to the state general fund.".

(Reference is to ESB 333 as printed February 22, 2002.)

ATTERHOLT

Upon request of Representatives Atterholt and Buck, the Speaker ordered the roll of the House to be called. Roll Call 194: yeas 52, nays 46. Motion prevailed.

HOUSE MOTION
(Amendment 333–27)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 6, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 9. IC 4-31-4-4 ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4. (a) This section applies to the following:**

(1) A permit holder who satisfies all of the following:

(A) The permit holder was issued a satellite facility license before January 2, 1996.

(B) The permit holder operated a satellite facility located in a county having a consolidated city before January 2, 1996.

(C) The permit holder is currently operating the satellite facility under the license.

(D) The permit holder operates a racetrack in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(2) A permit holder who satisfies both of the following:

(A) The permit holder was issued a permit before January 2, 2002 to operate a racetrack in a county having a population of more than forty-three thousand (43,000) but less than forty-five thousand (45,000).

(B) The permit holder has filed an application to operate a satellite facility in a county having a consolidated city.

(b) Notwithstanding any other provision of this article, the Indiana gaming commission may not authorize the permit holder to offer pari-mutuel pull tab games at the permit holder's:

(1) satellite facility located in the county described in subsection (a); or

(2) racetrack;

unless the voters of the county in which the satellite facility or racetrack is located approve pari-mutuel pull tab games in the county.

(c) For a local public question required to be held under subsection (b), the county election board shall place the following question on the ballot in the county during the next general election:

"Shall pari-mutuel pull tab games be allowed in _____ County?".

(d) A public question under this section must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(e) The circuit court clerk of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question is placed on the ballot under subsection (c) in a county and the voters of the county do not vote in favor of the public question, a second public question under that subsection may not be held in the county for at least two (2) years. If the voters of the county vote to reject the public question a second time, a third or subsequent public question under that subsection may not be held in the county until the general election held during the tenth year following the year of the previous public question held under that subsection.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

TURNER

Upon request of Representatives Turner and Buck, the Speaker ordered the roll of the House to be called. Roll Call 195: yeas 50, nays 47. Motion prevailed.

HOUSE MOTION
(Amendment 333–11)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 30, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 48. IC 4-33-6-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. (a) This section applies to the following units:**

(1) A county contiguous to the Ohio River that has a riverboat licensed under this article.

(2) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

(3) A city that has a riverboat licensed under this article and is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Notwithstanding any other provision of this article, the licensed owner of a riverboat may not implement dockside gaming unless the voters of the unit that approved the conducting of gambling games on riverboats in the unit also approves dockside riverboat gambling.

(c) If at least the number of the registered voters of the unit required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning dockside riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the unit during the next general election:

"Shall dockside riverboat gambling be permitted in the _____ of _____?".

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The clerk of the circuit court of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a unit and the voters of the unit do not vote in favor of permitting dockside riverboat gambling under this article, another public question under this section may not be held in that unit for at least two (2) years.".

Page 55, after line 14, begin a new paragraph and insert:

"SECTION 77. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

TURNER

Upon request of Representatives Turner and Buck, the Speaker ordered the roll of the House to be called. Roll Call 196: yeas 28, nays 66. Motion failed.

HOUSE MOTION
(Amendment 333–10)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 28, line 42, reset in roman "(2) a county".

Page 28, line 42, after "Lake;" insert "**containing a historic preservation district described in IC 4-33-1-1(3);**".

Page 29, line 1, reset in roman "(3)".

Page 29, line 1, delete "(2)".

Page 29, delete lines 33 through 42.

Page 30, delete lines 1 through 32.

Page 54, delete lines 16 through 42.

Page 55, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

TURNER

Upon request of Representatives Turner and Buck, the Speaker ordered the roll of the House to be called. Roll Call 197: yeas 27, nays 68. Motion failed.

HOUSE MOTION
(Amendment 333–26)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 40, line 30, after "have" delete "a" and insert "**any of the following:**

(A)A".

Page 40, between lines 31 and 32, begin a new line double block indented and insert:

"**(B) A pari-mutuel horse racing track licensed under IC 4-31.**

(C) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.".

Page 43, line 4, delete "a riverboat licensed under this article. The treasurer of" and insert "**any of the following:**

(1) A riverboat licensed under this article.

(2) A pari-mutuel horse racing track licensed under IC 4-31.

(3) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.

The treasurer of state shall make the payments to each county described in this subsection according to the ratio the population of each county bears to the total population of the counties described in this subsection.".

Page 43, delete lines 5 through 8.

(Reference is to ESB 333 as printed February 22, 2002.)

WHETSTONE

Motion prevailed.

HOUSE MOTION
(Amendment 333–15)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 12, line 2, delete "two" and insert "**five**".

Page 12, line 3, delete "($2)" and insert "**($5)**".

Page 12, line 4, after "racetrack" delete "." and insert "**during a particular day. The admissions tax is imposed only one (1) time per day per person.**".

Page 12, line 22, delete "One" and insert "**Two**".

Page 12, line 22, delete "($1)" and insert "**($2)**".

Page 12, between lines 33 and 34, begin a new line block indented and insert:

"**(3) Two dollars ($2) of the admissions tax collected for each person admitted to the pari-mutuel pull tab wagering area of the permit holder's racetrack shall be paid to the county treasurer of each county described in IC 4-33-12-6(j) according to the ratio the population of each county bears to the total population of the counties that do not have any of the following:**

(A) A riverboat licensed under this article.

(B) A pari-mutuel horse racing track licensed under IC 4-31.

(C) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.".

Page 12, line 35, after "city" delete "," and insert "**:**".

Page 12, line 36, delete "two dollars ($2)" begin a new line block indented and insert:

"**(1) three dollars ($3)**".

Page 12, line 40, delete "subsection" and insert "**subdivision**".

Page 12, line 42, after "(as defined in IC 21-3-1.6-1.1)" delete "." and insert "**; and**".

Page 12, after line 42, begin a new line block indented and insert:

"**(2) two dollars ($2) of the admissions tax collected for each person admitted to the pari-mutuel pull tab wagering area of the permit holder's racetrack shall be paid to the county treasurer of each county described in IC 4-33-12-6(j) according to the ratio the population of each county bears to the total population of the counties that do not have any of the following:**

(A) A riverboat licensed under this article.

(B) A pari-mutuel horse racing track licensed under IC 4-31.

(C) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.".

Page 38, line 3, after "vessel" insert "**or in a historic preservation district described in IC 4-33-1-1(3)**".

Page 38, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 57. IC 4-33-12-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 1.4. (a) This section applies only to a riverboat located in a historic preservation district described in IC 4-33-1-1(3).**

(b) A tax is imposed upon admissions to the riverboat authorized under this article at the rate of five dollars ($5) per day for each patron who boards the riverboat during a particular day. The admissions tax is imposed only one (1) time per day per patron.

(c) This admission tax is imposed upon the licensed owner conducting the gambling operation.

(d) The gaming commission shall adopt rules under IC 4-22-2 to implement this section.".

Page 40, line 10, delete "Sixty-five" and insert "**Except as provided in subsection (k),** sixty-five".

Page 40, line 18, strike "a" and insert "**each**".

Page 40, line 18, strike "was" and insert "**has been**".

Page 40, line 19, after "The" insert "**Indiana horse racing**".

Page 40, line 21, strike "the" and insert "**a**".

Page 40, line 24, after "schedule." insert "**If a permit holder sells pull tabs at a racetrack or satellite facility, the maximum amount that the Indiana horse racing commission may grant for routine operations at the permit holder's racetrack is equal to:**

(i) the total amount granted under this section in a calendar year to a racetrack operated by a permit holder under a recognized meeting permit first issued before January 1, 2002; minus

(ii) the total adjusted gross receipts reported by a permit holder under IC 4-31-7.5-11 for the twelve (12) months immediately preceding the date on which the grant is distributed.

(C) To county and 4-H fairs for the maintenance and operation of horse racing facilities.

The maximum amount paid to the Indiana horse racing commission under this subdivision in a state fiscal year may not exceed twenty-six million dollars ($26,000,000), minus the amount, if any, paid to the Indiana horse racing commission under IC 4-31-7.5.".

Page 40, line 30, after "have" insert "**any of the following:**

(1)".

Page 40, between lines 31 and 32, begin a new line block indented and insert:

"**(2) A pari-mutuel horse racing track licensed under IC 4-31.**

(3) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.".

Page 41, between lines 27 and 28, begin a new line block indented and insert:

"**(8) The remainder of the admissions tax collected by the licensed owner for each person embarking on a riverboat during the quarter shall be paid to county treasurer of each county described in subsection (j) according to the ratio the population of each county bears to the total population of the counties that do not have any of the following:**

(A) A riverboat licensed under this article.

(B) A pari-mutuel horse racing track licensed under IC 4-31.

(C) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.".

Page 43, line 4, delete "a riverboat licensed under this article. The treasurer of" and insert "**any of the following:**

(1) A riverboat licensed under this article.

(2) A pari-mutuel horse racing track licensed under IC 4-31.

(3) A satellite facility offering pari-mutuel pull tabs under IC 4-31-7.5.

The treasurer of state shall make the payments to each county described in this subsection according to the ratio the population of each county bears to the total population of the counties described in this subsection.".

Page 43, delete lines 5 through 8.

Page 43, between lines 8 and 9, begin a new paragraph and insert:

"**(k) After the Indiana horse racing commission is paid the maximum amount of admissions taxes allowed under subsection (b)(6), the remainder of that part of the admissions tax that is described in subsection (b)(6) shall be paid to the counties described in subsection (j) in the manner provided in subsection (j).**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 333 as printed February 22, 2002.)

WHETSTONE

Motion failed.

HOUSE MOTION
(Amendment 333–20)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 48, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 4. IC 35-45-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) knowingly or intentionally owns, manufactures, possesses, buys, sells, rents, leases, repairs, or transports a gambling device, or offers or solicits an interest in a gambling device;

(2) before a race, game, contest, or event on which gambling may be conducted, knowingly or intentionally transmits or receives gambling information by any means, or knowingly or intentionally installs or maintains equipment for the transmission or receipt of gambling information; or

(3) having control over the use of a place, knowingly or intentionally permits another person to use the place for professional gambling;

commits promoting professional gambling, a Class D felony.

(b) Subsection (a)(1) does not apply to a boat manufacturer who:

(1) transports or possesses a gambling device solely for the purpose of installing that device in a boat that is to be sold and transported to a buyer; and

(2) does not display the gambling device to the general public or make the device available for use in Indiana.

(c) When a public utility is notified by a law enforcement agency acting within its jurisdiction that any service, facility, or equipment furnished by it is being used or will be used to violate this section, it shall discontinue or refuse to furnish that service, facility, or equipment, and no damages, penalty, or forfeiture, civil or criminal, may be found against a public utility for an act done in compliance with such a notice. This subsection does not prejudice the right of a person affected by it to secure an appropriate determination, as otherwise provided by law, that the service, facility, or equipment should not be discontinued or refused, or should be restored.

(d) Subsection (a)(1) does not apply to a person who:

(1) possesses an antique slot machine;

(2) restricts display and use of the antique slot machine to the person's private residence; and

(3) does not use the antique slot machine for profit.

(e) As used in this section, "antique slot machine" refers to a slot machine that is:

(1) at least forty (40) years old; and

(2) possessed and used for decorative, historic, or nostalgic purposes."

Renumber all SECTIONS consecutively.

(Reference is to SB 333 as printed February 22, 2002.)

TORR

Motion prevailed.

HOUSE MOTION
(Amendment 333–7)

Mr. Speaker: I move that Engrossed Senate Bill 333 be amended to read as follows:

Page 55, after line 14 , begin a new paragraph and insert:

"SECTION 77. **[EFFECTIVE UPON PASSAGE] No new gaming facilities or gaming devices and no new extension of existing gaming facilities shall be permitted until January 2, 2012."**

(Reference is to SB 333 as printed February 22, 2002.)

KRUSE

Upon request of Representatives Kruse and Turner, the Speaker ordered the roll of the House to be called. Roll Call 198: yeas 41, nays 53. Motion failed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

ENGROSSED SENATE BILLS ON SECOND READING

The following bills were called down by their respective sponsors, were read a second time by title, and, there being no amendments, were ordered engrossed: Engrossed Senate Bills 43, 207, 363, 374, 410, 415, 416, 417, 422, 423, 462, 466, 469, 488, 491, 504, 506, 508, 509, 516, and 518 and Engrossed Senate Joint Resolution 12.

Engrossed Senate Bill 360

Representative Goodin called down Engrossed Senate Bill 360 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 360–1)

Mr. Speaker: I move that Engrossed Senate Bill 360 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-9-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The commission shall establish and maintain a permanent office in the city of Indianapolis.

(b) The commission may appoint such attorneys and other employees and agents as it considers necessary, fix their compensation within the limitation provided by law, and prescribe

their duties. All these employees, with the exception of the executive director and attorneys, shall be appointed by the commission from eligible lists to be promulgated by the department of personnel as the result of a competitive examination held under IC 4-15-2 and rules of the department and on the basis of training, practical experience, education, and character. However, special consideration and due weight shall be given to the practical experience and training that a person may have for the particular position involved regardless of his academic training. Promotions, suspensions, and removal of persons appointed from such lists shall be in accordance with IC 4-15-2. The reasonable and necessary traveling expenses of each employee of the commission while actually engaged in the performance of duties in behalf of the commission shall be paid in accordance with the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Except as it concerns judicial review, the commission may adopt rules under IC 4-22-2 to implement this chapter.

(d) The commission shall formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or local subdivisions thereof to effectuate such policies. The several departments, commissions, divisions, authorities, boards, bureaus, agencies, and officers of the state or any political subdivision or agency thereof shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any matter before the commission.

(e) The commission shall receive and investigate complaints alleging discriminatory practices. The commission shall not hold hearings in the absence of a complaint. All investigations of complaints shall be conducted by staff members of the civil rights commission or their agents.

(f) The commission may create such advisory agencies and conciliation councils, local or statewide, as will aid in effectuating the purposes of this chapter. The commission may itself, or it may empower these agencies and councils to:

(1) study the problems of discrimination in the areas covered by section 2 of this chapter when based on race, religion, color, sex, handicap, national origin, or ancestry; and

(2) foster through community effort, or otherwise, good will among the groups and elements of the population of the state.

These agencies and councils may make recommendation to the commission for the development of policies and procedures in general. Advisory agencies and conciliation councils created by the commission shall be composed of representative citizens serving without pay, but with reimbursement for reasonable and necessary actual expenses.

(g) The commission may issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, handicap, national origin, or ancestry.

(h) The commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because he filed a complaint, testified in any hearing before this commission, or in any way assisted the commission in any matter under its investigation.

(i) The commission may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books and papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued under this section shall constitute a contempt. All hearings shall be held within Indiana at a location determined by the commission. A citation of contempt may be issued upon application by the commission to the circuit or superior court in the county in which the hearing is held or in which the witness resides or transacts business.

(j) The commission may appoint administrative law judges other than commissioners, when an appointment is deemed necessary by a majority of the commission. The administrative law judges shall be members in good standing before the bar of Indiana and shall be appointed by the chairman of the commission. An administrative law judge appointed under this subsection shall have the same powers and duties as a commissioner sitting as an administrative law judge. However, the administrative law judge may not issue subpoenas.

(k) The commission shall state its findings of fact after a hearing and, if the commission finds a person has engaged in an unlawful discriminatory practice, shall cause to be served on this person an order requiring the person to cease and desist from the unlawful discriminatory practice and requiring the person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power:

(A) to restore complainant's losses incurred as a result of discriminatory treatment, as the commission may deem necessary to assure justice, **including attorney's fees;** however, this specific provision when applied to orders pertaining to employment shall include only wages, salary, or commissions;

(B) to require the posting of notice setting forth the public policy of Indiana concerning civil rights and respondent's compliance with the policy in places of public accommodations;

(C) to require proof of compliance to be filed by respondent at periodic intervals; and

(D) to require a person who has been found to be in violation of this chapter and who is licensed by a state agency authorized to grant a license to show cause to the licensing agency why his license should not be revoked or suspended.

(l) Judicial review of a cease and desist order or other affirmative action as referred to in this chapter may be obtained under IC 22-9-8. If no proceeding to obtain judicial review is instituted within thirty (30) days from receipt of notice by a person that an order has been made by the commission, the commission, if it determines that the person upon whom the cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of the order in circuit or superior court upon showing that the person is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(m) If, upon all the evidence, the commission shall find that a person has not engaged in any unlawful practice or violation of this chapter, the commission shall state its findings of facts and shall issue and cause to be served on the complainant an order dismissing the complaint as to the person.

(n) The commission may furnish technical assistance requested by persons subject to this chapter to further compliance with this chapter or with an order issued thereunder.

(o) The commission shall promote the creation of local civil rights agencies to cooperate with individuals, neighborhood associations, and state, local, and other agencies, both public and private, including agencies of the federal government and of other states.

(p) The commission may reduce the terms of conciliation agreed to by the parties to writing (to be called a consent agreement) that the parties and a majority of the commissioners shall sign. When signed, the consent agreement shall have the same effect as a cease and desist order issued under subsection (k). If the commission determines that a party to the consent agreement is not complying with it, the commission may obtain enforcement of the consent agreement in a circuit or superior court upon showing that the party is not complying with the consent agreement and the party is subject to the commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

(q) In lieu of investigating a complaint and holding a hearing under this section, the commission may issue an order based on findings and determinations by the federal Department of Housing and Urban Development or the federal Equal Employment Opportunity Commission concerning a complaint that has been filed with one (1) of these federal agencies and with the commission. The commission shall adopt by rule standards under which the commission may issue such an order.

(r) Upon notice that a complaint is the subject of an action in a federal court, the commission shall immediately cease investigation of the complaint and may not conduct hearings or issue findings of fact or orders concerning that complaint.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 360 as printed February 22, 2002.)

C. BROWN

Motion prevailed.

HOUSE MOTION
(Amendment 360–2)

Mr. Speaker: I move that Engrossed Senate Bill 360 be amended to read as follows:

Page 1, delete lines 14 through 17.

Page 2, delete lines 1 through 6.

Renumber all SECTIONS consecutively.

(Reference is to ESB 360 as printed February 22, 2002.)

M. SMITH

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 367

Representative Crosby called down Engrossed Senate Bill 367 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 367–1)

Mr. Speaker: I move that Engrossed Senate Bill 367 be amended to read as follows:

Page 15, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 18. IC 11-8-1-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.5. "Constant supervision" means the monitoring of a violent offender twenty-four (24) hours each day.**

SECTION 19. IC 11-8-1-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.7. "Flight risk" means a person who was placed on parole for conviction of escape or attempted escape or failure to return to lawful detention.**

SECTION 20. IC 11-8-1-8.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.9. (a) "Home" means:**

(1) the interior living area of the temporary or permanent residence of a person; or

(2) if a person's residence is a multiple family dwelling, the unit in which the person resides, not including the:

(A) halls or common areas outside the unit where the person resides; or

(B) other units, occupied or unoccupied, in the multiple family dwelling.

(b) The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house.

(c) The term does not include a public correctional facility or the residence of another person who is not part of the social unit formed by the person's immediate family.

SECTION 21. IC 11-8-1-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.8. "Monitoring device" means an electronic device that:**

(1) is limited in capability to recording or transmitting information regarding an offender's presence or absence from the offender's home;

(2) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; and

(3) with the written consent of the offender and other persons residing in the home at the time an order for home detention is entered, may record or transmit:

(A) visual images;

(B) oral or wire communication or any auditory sound; or

(C) information regarding the offender's activities while inside the offender's home.

SECTION 22. IC 11-8-1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. "Security risk" means a person who is a threat to the physical safety of the public.**

SECTION 23. IC 11-8-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. "Violent offender" means a person who meets either of the following conditions:**

(1) Was placed on parole for conviction of any of the following offenses or attempted offenses:

(A) Battery (IC 35-42-2-1).

(B) Domestic battery (IC 35-42-2-1.3).

(C) Arson (IC 35-43-1-1).

(D) Stalking (IC 35-45-10-5).

(E) Knowingly selling, manufacturing, purchasing, or possessing a bomb or other container containing an explosive or inflammable substance (IC 35-47-5-1).

(F) A crime identified as a "crime of violence" in IC 35-50-1-2(a).

(2) Is a security risk, as determined under IC 11-13-9-2.

SECTION 24. IC 11-8-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The department shall establish a program of research and statistics, alone or in cooperation with others, for the purpose of assisting in the identification and achievement of realistic short term and long term departmental goals, the making of administrative decisions, and the evaluation of the facilities and programs of the entire state correctional system. Information relating to the following must be compiled:

(1) An inventory of current facilities and programs, including residential and nonresidential community programs and offender participation.

(2) Population characteristics and trends, including the following concerning offenders:

(A) Ethnicity.

(B) **Race.**

(C) Gender.

(D) Carrier (as defined in IC 16-18-2-49) status.

(3) Judicial sentencing practices.

(4) Service area resources, needs, and capabilities.

(5) Recidivism of offenders.

(6) Projected operating and capital expenditures.

(b) The department may conduct research into the causes, detection, and treatment of criminality and delinquency and disseminate the results of that research.

(c) Annually, within thirty (30) days after the close of the department's fiscal year, the department shall forward the information with respect to state operated community corrections programs compiled under subsection (a)(2) to the executive director of the legislative services agency.

SECTION 25. IC 11-12-1-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. A community corrections advisory board established under section 2 of this chapter shall compile information relating to the ethnicity, race, gender, and carrier (as defined in IC 16-18-2-49) status of persons described in section 2(2), 2(3), and 2(4) of this chapter who are served by community corrections programs coordinated or operated by the board. The board shall forward this information annually, within thirty (30) days after the close of the board's fiscal year, to the executive director of the legislative services agency.**

SECTION 26. IC 11-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system, ~~and~~ providing effective alternatives to imprisonment at the state level, **and reintegrating offenders into the community,** the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter, and charges made against a county under section 9, do not revert to the general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants

under this chapter.".

Page 17, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 19. IC 11-13-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9. Violent Offenders and Flight Risks on Home Detention as a Condition of Parole

Sec. 1. This chapter applies to an offender who has been placed on parole under IC 11-13-3 or IC 35-50-6-1.

Sec. 2. (a) The department of correction shall establish written criteria and procedures for determining whether an offender is a flight risk (as defined in IC 11-8-1-8.7) or a violent offender (as defined in IC 11-8-1-12).

(b) The department of correction shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department of correction to quickly determine whether an offender placed on home detention as a condition of parole is a flight risk or a violent offender.

Sec. 3. The department of correction shall provide all law enforcement agencies having jurisdiction in the place where the offender's home detention is located with a list that includes the following information:

(1) The offender's name, any known aliases, and the location of the offender's home detention.

(2) The crime for which the offender was convicted and placed on parole.

(3) The date the offender's home detention expires.

(4) The name, address, and telephone number of the parole officer supervising the offender on home detention.

(5) An indication of whether the offender is a flight risk or a violent offender.

(6) A photograph of the offender.

Sec. 4. Except for absences from the offender's home for reasons set forth in IC 35-38-2.5-6(1), the department of correction shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to minimize the possibility that an offender can enter another residence or structure without a violation.

Sec. 5. (a) A contract agency described in subsection (b) or the department of correction shall immediately contact a local law enforcement agency described in section 3 of this chapter upon determining that a violent offender is violating a condition of home detention.

(b) The department of correction shall use a monitoring device and surveillance equipment to maintain constant supervision of the violent offender. The department of correction may do this by:

(1) using its own equipment and personnel; or

(2) contracting with an outside entity.".

Page 18, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 20. IC 35-33-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 8.7. Pre-Trial Release and Home Detention

Sec. 1. As used in this chapter, "constant supervision" means the monitoring of a violent offender twenty-four (24) hours each day by means described in section 8 of this chapter.

Sec. 2. As used in this chapter, "flight risk" means a person who is charged with escape or attempted escape or failure to return to lawful detention.

Sec. 3. (a) As used in this chapter, "home" means:

(1) the interior living area of the temporary or permanent residence of a person; or

(2) if a person's residence is a multiple family dwelling, the unit in which the person resides, not including the:

(A) halls or common areas outside the unit where the person resides; or

(B) other units, occupied or unoccupied, in the multiple family dwelling.

(b) The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house.

(c) The term does not include a public correctional facility or the residence of another person who is not part of the social unit formed by the person's immediate family.

Sec. 4. "Monitoring device" means an electronic device that:

(1) is limited in capability to recording or transmitting information regarding an offender's presence or absence from the offender's home;

(2) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; and

(3) with the written consent of the offender and other persons residing in the home at the time an order for home detention is entered, may record or transmit:

(A) visual images;

(B) oral or wire communication or any auditory sound; or

(C) information regarding the offender's activities while inside the offender's home.

Sec. 5. As used in this chapter, "security risk" means a person who is a threat to the physical safety of the public.

Sec. 6. As used in this chapter, "violent offender" means a person who meets either of the following conditions:

(1) Is charged with one (1) of the following offenses or attempted offenses:

(A) Battery (IC 35-42-2-1).

(B) Domestic battery (IC 35-42-2-1.3).

(C) Arson (IC 35-43-1-1).

(D) Stalking (IC 35-45-10-5).

(E) Knowingly selling, manufacturing, purchasing, or possessing a bomb or other container containing an explosive or inflammable substance (IC 35-47-5-1).

(F) A crime identified as a "crime of violence" in IC 35-50-1-2(a).

(2) Is a security risk.

Sec. 7. (a) If a person resides in a county other than the county in which the court has jurisdiction, the court may not place the person on home detention as a condition of pre-trial release unless:

(1) the person is eligible for home detention as a condition of pre-trial release in the county in which the person resides; and

(2) supervision of the offender will be conducted by the county in which the person resides.

(b) If a person is:

(1) serving home detention in a county that operates a home detention program; and

(2) being supervised by a probation department or community corrections program located in a county other than the county in which the court has jurisdiction;

the court may order that supervision of the person be transferred to the county where the person resides if the person remains on home detention in the other county.

(c) All home detention fees shall be collected by the county that supervises the offender.

Sec. 8. (a) Each probation department or community corrections department shall establish written criteria and procedures for determining whether a person placed on home detention as a condition of pre-trial release qualifies as a flight risk or a violent offender.

(b) A probation department or community corrections department shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department to quickly determine whether an offender placed on home detention as a condition of pre-trial release is a flight risk or a violent offender.

(c) A probation department or community corrections department charged by a court with supervision of a flight risk or a violent offender placed on home detention as a condition of pre-trial release shall provide all law enforcement agencies having jurisdiction in the place where the probation department

or community corrections department is located with information on the flight risk or the violent offender supervised by the probation department or community corrections department. The information must include the following:

(1) The offender's name, any known aliases, and the location of the person's home detention.

(2) The crime with which the offender is charged.

(3) The name, address, and telephone number of the offender's supervising probation or community corrections officer for pre-trial home detention.

(4) An indication of whether the offender is a flight risk or a violent offender.

(5) A photograph of the offender.

(d) Except for absences from the offender's home for reasons set forth in IC 35-38-2.5-6(1), a probation department or community corrections department charged by a court with supervision of an offender placed on home detention as a condition of pre-trial release shall set the monitoring device and surveillance equipment to minimize the possibility that the offender can enter another residence or structure without a violation.

Sec. 9. (a) A contract agency described in subsection (b) or a probation department or community corrections department charged by a court with supervision of a flight risk or a violent offender placed on home detention under this chapter shall immediately contact a local law enforcement agency upon determining that a flight risk or a violent offender is violating a condition of home detention.

(b) A probation department or community corrections department charged by a court with supervision of a flight risk or a violent offender placed on home detention under this chapter shall use a monitoring device and surveillance equipment to maintain constant supervision of the flight risk or the violent offender. The supervising entity may do this by:

(1) using the supervising entity's equipment and personnel; or

(2) contracting with an outside entity.".

Page 21, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 24. IC 35-38-2.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. As used in this chapter, "flight risk" means a person who is convicted of escape or attempted escape or failure to return to lawful detention.**

SECTION 25. IC 35-38-2.5-4.5, AS ADDED BY P.L.137-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. As used in this chapter, "security risk" means a person who is

~~(1) a flight risk; or~~

~~(2)~~ a threat to the physical safety of the public.

SECTION 26. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

(1) convicted of an offense or attempted offense, except for an offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, ~~IC 35-44-3-5,~~ IC 35-45-10-5, or IC 35-47-5-1; **or**

~~(2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1; or~~

~~(3)~~ **(2)** a security risk as determined under section 10 of this chapter.

SECTION 27. IC 35-38-2.5-10, AS AMENDED BY P.L.137-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Each probation department or community corrections department shall establish written criteria and procedures for determining whether an offender ~~or alleged offender~~ that the department supervises on home detention qualifies as a **flight risk or a** violent offender.

(b) A probation or community corrections department shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department to quickly determine whether an offender ~~or alleged offender~~ who violates the terms of a home detention order is a **flight risk or a** violent offender.

(c) A probation department or a community corrections program charged by a court with supervision of ~~offenders and alleged offenders~~ **an offender** ordered to undergo home detention shall provide all law enforcement agencies ~~(including any contract agencies)~~ having jurisdiction in the place where the probation department or a community corrections program is located with a list of offenders ~~and alleged offenders~~ under home detention supervised by the probation department or the community corrections program. The list must include the following information about each offender: ~~and alleged offender:~~

(1) The offender's name, any known aliases, and the location of the offender's home detention.

(2) The crime for which the offender was convicted.

(3) The date the offender's home detention expires.

(4) The name, address, and telephone number of the offender's supervising probation or community corrections program officer for home detention.

(5) An indication of whether the offender ~~or alleged offender~~ is a **flight risk or a** violent offender.

(6) A photograph of the offender.

(d) Except **for the offender's absences from the offender's home** as provided under section 6(1) of this chapter, a probation department or community corrections program charged by a court with supervision of ~~offenders and alleged offenders~~ **an offender** ordered to undergo home detention shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to minimize the possibility that the offender ~~or alleged offender~~ can enter another residence or structure without a violation.

SECTION 28. IC 35-38-2.5-12, AS ADDED BY P.L.137-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A **contracting entity described in subsection (b),** probation department, or community corrections program charged by a court with supervision of a **flight risk or a** violent offender placed on home detention under this chapter shall cause a local law enforcement agency ~~or contract agency~~ described in section 10 of this chapter to be the initial agency contacted upon determining that the **flight risk or the** violent offender is in violation of a court order for home detention.

(b) A probation department or community corrections program charged by a court with supervision of a **flight risk or a** violent offender placed on home detention under this chapter shall maintain constant supervision of the **flight risk or the** violent offender using a monitoring device and surveillance equipment. The supervising entity may do this by:

(1) using the supervising entity's equipment and personnel; or

(2) contracting with an outside entity.

SECTION 29. IC 35-38-2.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "community corrections program" means a program consisting of residential and work release, electronic monitoring, day treatment, ~~or~~ day reporting, **or a service to reintegrate offenders into the community** that is:

(1) operated under a community corrections plan of a county and funded at least in part by the state subsidy provided under IC 11-12-2; or

(2) operated by or under contract with a court or county.".

Page 22, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 25. IC 35-44-3-5, AS AMENDED BY P.L.137-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or ~~intentionally violates a home detention order or~~ intentionally removes an electronic monitoring device commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified

purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 367 as printed February 22, 2002.)

RESKE

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 376

Representative Welch called down Engrossed Senate Bill 376 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 376–2)

Mr. Speaker: I move that Engrossed Senate Bill 376 be amended to read as follows:

Page 2, line 30, after "document" insert "**from another state agency**".

Page 4, after line 33, begin a new paragraph and insert:

"**Sec. 6. Notwithstanding any other state statute, a state agency shall disclose an individual's Social Security number to:**

(1) an agency of federal, state, or local government; and

(2) a commercial entity that:

(A) is qualified by the attorney general; and

(B) makes a written request for the disclosure of information;

as set forth in this chapter.

Sec. 7. A commercial entity that applies for qualification with the attorney general shall use the form prescribed by the attorney general. An applicant must verify the application for qualification.

Sec. 8. The application for qualification must include the following information:

(1) Name of the commercial entity.

(2) The officers of the commercial entity.

(3) Information regarding any contractor or subcontractor of the commercial entity that will have access to the Social Security numbers obtained by the commercial entity, including whether any person with access to the information is confined in a correctional facility.

(4) A statement of the activities of the commercial entity for which disclosure of the information is necessary.

Sec. 9. (a) A commercial entity shall be qualified by the attorney general under this chapter if the commercial entity, its agents, employees, contractors, or subcontractors are engaged in the performance of a commercial activity that obtains information, including Social Security numbers, from a state agency for any of the following legitimate business or professional uses:

(1) Verification of the accuracy of personal information submitted in a commercial transaction.

(2) Use in a civil, criminal, or administrative proceeding.

(3) Use in law enforcement activities or the investigation of crimes.

(4) An insurance purpose.

(5) Detecting or preventing fraud.

(6) The matching, verification, or retrieval of information.

(7) Research activities.

(b) A legitimate business or professional use does not include the disclosure or bulk sale of Social Security numbers to members of the general public.

Sec. 10. The attorney general shall approve or deny an application for qualification not later than thirty (30) days after receiving the application. During the thirty (30) day approval review period, the attorney general may investigate the applicant to determine whether the applicant satisfies the requirements of this chapter.

Sec. 11. (a) The attorney general may deny the application or revoke the qualification of a commercial entity for:

(1) failing to complete the application as set forth in section 8 of this chapter;

(2) failing to meet the requirements set forth in section 9 of this chapter;

(3) using an individual's Social Security number obtained under this chapter from a state agency in an unlawful or fraudulent manner; or

(4) disclosing or selling an individual's Social Security number to members of the general public.

(b) The attorney general may not revoke or deny the qualification of a commercial entity until:

(1) the commercial entity is notified in writing by the attorney general of the grounds of the proposed denial or revocation; and

(2) the commercial entity is provided with an opportunity to be heard on the proposed denial or revocation.

Sec. 12. The attorney general may require a qualified commercial entity to renew its qualification with the attorney general's office, but not more than every two (2) years.

Sec. 13. (a) A state agency shall disclose a Social Security number to a commercial entity that is qualified under this chapter if the commercial entity completes a written request for the information on a form reasonably prescribed by the attorney general.

(b) A written request to a state agency must include a statement, verified by an authorized officer, employee, or agent of the commercial entity that the Social Security numbers will be used only in the normal course of business for a legitimate business or professional use as set forth in section 9 of this chapter.

(c) Nothing in this chapter shall prohibit the disclosure of Social Security numbers to a business or professional entity that is:

(1) qualified under this chapter; and

(2) engaged in a legitimate business or professional purpose as set forth in section 9 of this chapter.

A state agency may request other information that may be reasonably necessary to verify the identity of the entity requesting the Social Security numbers.

Sec. 14. This chapter does not prevent the reporting of Social Security numbers to or from a consumer reporting agency (as defined in 15 U.S.C. 1681a) or to a debt collector (as defined in 15 U.S.C. 1692a).

Sec. 15. A person who knowingly makes a false representation to the attorney general or a state agency in order to obtain a Social Security number from the state agency commits a Class D felony.

Sec. 16. An employee of a state agency who knowingly discloses a Social Security number in violation of this chapter commits a Class D felony.

Sec. 17. A trial court shall report all convictions under this chapter to the attorney general. If an employee, an agent, or a contractor of a commercial entity that is qualified under this chapter is convicted of an offense under this chapter for actions taken during the course of their employment, agency, or contract, the attorney general may revoke the qualification of the commercial entity for a period of not more than two (2) years.

Sec. 18. Not later than January 31, a state agency must file a report with the secretary of state and the executive director of the legislative services agency that includes:

(1) a listing of all commercial entities that:

(A) are qualified under this chapter; and

(B) have requested Social Security numbers during the preceding calendar year; and

(2) the purpose or purposes stated by each listed commercial entity for its need for receiving Social Security numbers.

Sec. 19. The attorney general may adopt rules under IC 4-22-2 that the attorney general considers necessary to carry out this chapter.".

(Reference is to ESB 376 as printed February 15, 2002.)

WELCH

Motion prevailed.

HOUSE MOTION
(Amendment 376–1)

Mr. Speaker: I move that Engrossed Senate Bill 376 be amended to read as follows:

Page 2, after line 33, begin a new paragraph and insert:

"SECTION 2. IC 4-6-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1.5. (a) Whenever any state governmental official or employee, whether elected or appointed, is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of his duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under ~~IC 20-8.1-5-2(c),~~ **IC 20-8.1-5.1-7,** the attorney general shall defend the teacher throughout the action.

(c) **Whenever a health care provider (as defined in IC 16-18-2-163(c)) is made party to a malpractice (as defined in IC 34-18-2-18) suit and the attorney general determines that:**

(1) the malpractice claim relates to medical services provided to an offender, who at the time the claim arose was committed to the department of correction;

(2) the offender was transported to a hospital emergency room for treatment of a traumatic injury or medical emergency; and

(3) the department of correction authorized the offender's transport to the hospital emergency room;

the attorney general shall defend the health care provider throughout the action.

(d) A determination by the attorney general under subsection (a) or (b) shall not be admitted as evidence in the trial of any such civil action for damages.

~~(d)~~ **(e)** Nothing in this chapter shall be construed to deprive any such person of his right to select counsel of his own choice at his own expense.".

(Reference is to ESB 376 as printed February 15, 2002.)

PELATH

Representative Buck rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. Representative Pelath withdrew the motion.

HOUSE MOTION
(Amendment 376–3)

Mr. Speaker: I move that Engrossed Senate Bill 376 be amended to read as follows:

Delete the title and insert the following:

"A BILL FOR AN ACT concerning state and local administration.".

Page 1, line 1, delete "IC 4-1-9" and insert "IC 5-14-3.5".

Page 1, line 4, delete "9." and insert "**3.5.**".

Page 1, line 4, delete "State Agency" and insert "**Governmental Body**".

Page 1, delete lines 5 through 17, begin a new paragraph and insert:

"**Sec. 1. As used in this chapter, "governmental body" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of the following:**

(1) The executive, including the administrative, department of state government. Except as provided in clause (D), the term does not include the judicial department of state government or the legislative department of state government. The term includes the following:

(A) A state elected official's office.

(B) A state educational institution (as defined in IC 20-12-0.5-1).

(C) A body corporate and politic of the state created by state statute.

(D) The Indiana lobby registration commission established under IC 2-7-1.6-1.

(2) A city, town, county, or township.".

Page 2, delete lines 1 through 3.

Page 2, line 4, delete "state agency" and insert "**governmental body**".

Page 2, line 13, delete "state agency," and insert "**governmental body,**".

Page 2, line 13, after "if the" delete "agency" and insert "**governmental body**".

Page 2, line 14, delete "public agency" and insert "**governmental body**".

Page 2, line 16, delete "state agency" and insert "**governmental body**".

Page 2, line 17, delete "state agency" and insert "**governmental body**".

Page 2, line 24, delete "state agency" and insert "**governmental body**".

Page 2, line 27, delete "Unless" and insert "**Notwithstanding section 2 of this chapter, unless**".

Page 2, line 27, delete "state agency" and insert "**governmental body**".

Page 2, line 28, after "any" insert "**governmental body.**".

Page 2, delete line 29.

Page 2, line 30, delete "state agency" and insert "**governmental body**".

Page 2, line 30, after "document" insert "**from another governmental body**".

Page 2, line 32, delete "state agency" and insert "**governmental body**".

(Reference is to ESB 376 as printed February 15, 2002.)

T. ADAMS

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 381

Representative Grubb called down Engrossed Senate Bill 381 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 381–1)

Mr. Speaker: I move that Engrossed Senate Bill 381 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning agricultural inputs and agricultural outputs and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 15-9 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

ARTICLE 9. LEGAL ASSISTANCE TO FARMERS DEFENDING SUITS RELATED TO THE USE OF SEED OR AGRICULTURAL CHEMICALS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Agricultural chemical" refers to a substance used in agriculture for any of the following purposes:

(1) As a fertilizer.

(2) As a herbicide.

(3) As an insecticide.

Sec. 3. "Commission" refers to the Indiana commission for agriculture and rural development established by IC 4-4-22-6.

Sec. 4. "Commissioner" refers to the lieutenant governor, serving as the commissioner of agriculture under IC 4-4-3-2, or the lieutenant governor's designee.

Sec. 5. "Farmer" refers to a person engaged in commercial farming in Indiana.

Sec. 6. "Fund" refers to the farmer legal defense fund established by IC 15-9-5-1.

Sec. 7. "Legal expenses" refers to any of the following:

(1) Attorney's fees.

(2) Court costs.
(3) Expert witness fees.
(4) A farmer's travel expenses relating to litigation described in IC 15-9-4-1.

Sec. 8. "Registrant" refers to a person who registers under IC 15-9-2-2.

Sec. 9. "Seed" refers to agricultural seed or vegetable seed (as defined in IC 15-4-1-3) used to grow a commercial agricultural or a commercial vegetable crop.

Chapter 2. Registration of Persons Selling Agricultural Chemicals or Seed in Indiana

Sec. 1. This chapter does not apply to a person who sells agricultural chemicals or seed only at retail.

Sec. 2. A person who sells agricultural chemicals or seed in Indiana must register with the commissioner not later than the following:
(1) February 1 of each year.
(2) Ten (10) days before the person first sells agricultural chemicals or seed in Indiana.

Sec. 3. A person must do the following to register under this chapter.
(1) Provide the information required by section 4 of this chapter.
(2) Agree to comply with this article.
(3) Pay a registration fee of one thousand dollars ($1,000).
(4) Pay the fees required by section 6 of this chapter.

Sec. 4. A person registering under this chapter must provide the following information in the form required by the commissioner:
(1) The name of the registrant.
(2) The business address of the registrant.
(3) A description of the registrant's business structure.
(4) A list of all the agricultural chemicals and seed that the registrant sold in Indiana during the previous calendar year.
(5) For each agricultural chemical or seed listed under subdivision (4), the amount of chemical or seed sold in Indiana during the previous calendar year.
(6) Any other information required by the commissioner.

Sec. 5. An individual authorized to act for the registrant must do the following:
(1) State that the registrant agrees to comply with this article.
(2) Affirm the statement required by subdivision (1) and the information required by section 4 of this chapter under the penalties for perjury.

Sec. 6. (a) Except as provided in subsection (b) and IC 15-9-6-4, a registrant shall pay the following fees not later than ten (10) days after the date the registrant is required to register under section 2 of this chapter:
(1) For each fifty (50) pounds of seed the registrant sold in Indiana during the previous calendar year, five cents ($0.05).
(2) For agricultural chemicals the registrant sold in Indiana during the previous calendar year, the following amounts:
(A) Ten cents ($0.10) for each gallon of chemical if the chemical is a liquid designed to be applied without dilution.
(B) Ten cents ($0.10) for each unit of chemical required to make one (1) gallon of liquid for application if the chemical is designed to be diluted before application.
(C) Ten cents ($0.10) for each pound of chemical if the chemical is designed to be applied in a form other than a liquid.

(b) If a registrant did not sell agricultural chemicals or seed in Indiana during the previous calendar year, the registrant must pay a fee equal to one thousand dollars ($1,000) multiplied by the number of months remaining in the current calendar year, including the month of the date of the registration.

Chapter 3. Registrant Requirements

Sec. 1. This chapter states requirements to which a registrant must agree to register under this article.

Sec. 2. A registrant is considered to agree to all other provisions of this article not stated in this chapter.

Sec. 3. (a) This section applies if a registrant sells seed or agricultural chemicals to a farmer, either directly or through another person, under a contract that the registrant requires the farmer to sign.

(b) The registrant agrees that if the registrant's contract contains a provision under which the farmer agrees to jurisdiction and venue of any named courts to adjudicate disputes arising under the contract or concerning any of the registrant's property rights in the seed or chemicals provided under the contract:
(1) the provision will be printed:
(A) using a font for the text of the provision easily distinguishable from the font used for other provisions of the contract;
(B) in a location in the contract that draws the farmer's attention to the provision;
(C) using any other technique designed to draw the farmer's attention to the provision; or
(D) using any combination of methods described in clauses (A) through (C); and
(2) the registrant will require the farmer to sign the provision in addition to any other signature required by the farmer to enter into the contract.

Chapter 4. Legal Assistance to Farmers Defending Suits Related to the Use of Seed or Agricultural Chemicals

Sec. 1. A farmer who is a defendant in a lawsuit that alleges that the farmer has:
(1) breached a contract:
(A) relating to seed or an agricultural chemical; and
(B) to which the farmer is a party;
(2) infringed a patent relating to seed or to an agricultural chemical; or
(3) violated an intellectual property right or other property right that another person has in seed or an agricultural chemical;
may apply to the commissioner for reimbursement of legal expenses incurred by the farmer in the lawsuit.

Sec. 2. (a) Except as provided in subsection (b) and section 3 of this chapter, the commissioner may reimburse not more than fifty percent (50%) of the legal expenses incurred by the farmer.

(b) The amount of the reimbursement is subject to the money available in the fund.

(c) In determining the amount of the reimbursement under this section, the commissioner shall consider the following factors:
(1) The amount of money available in the fund.
(2) The effect that the litigation has had on the farmer's financial position and the farmer's ability to continue in the farming business.
(3) The legal significance that the litigation may have for other farmers.
(4) Whether any of the plaintiffs have acted in bad faith in dealing with the farmer.
(5) Other factors that the commissioner considers relevant.

Sec. 3. A farmer is not entitled to reimbursement of legal expenses under this chapter if the commissioner determines any of the following:
(1) The farmer's breach of contract was knowing, intentional, and in bad faith.
(2) The farmer's patent infringement or violation of the plaintiff's other property rights:
(A) was knowing and intentional; and
(B) the farmer gained substantial financial or other benefits from the infringement or violation.

Chapter 5. Farmer Legal Defense Fund

Sec. 1. The farmer legal defense fund is established to assist the legal defense of farmers as provided in IC 15-9-4.

Sec. 2. The fund consists of the following:
(1) Registration fees received under IC 15-9-2-3(3).
(2) Fees received under IC 15-9-2-6.

(3) Civil penalties collected under IC 15-9-7.

(4) Money appropriated to the fund by the general assembly.

(5) Any grants or gifts received by the commissioner for the purposes of the fund.

Sec. 3. The commissioner shall administer the fund.

Sec. 4. The expenses of administering the fund shall be paid from money in the fund.

Sec. 5. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(b) Interest that accrues from these investments shall be deposited in the fund.

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 7. Money in the fund is continuously appropriated for the purposes described in section 1 of this chapter.

Chapter 6. Indiana Farmer Friendly Designation

Sec. 1. Not later than January 31 of each year, the commission may designate one (1) or more registrants as an "Indiana Farmer Friendly Company".

Sec. 2. The commission shall designate a registrant that during the previous calendar year best satisfies all the following:

(1) The registrant's business practices demonstrate respect for Indiana farmers.

(2) The registrant's business practices demonstrate the registrant's concern for the well being of the businesses of Indiana farmers.

(3) The registrant's business practices enhance or do not diminish Indiana farmers' competitive position in the world market place.

(4) Any other criteria recommended by the commission and stated in rules adopted by the commissioner under IC 4-22-2 that the commission determines demonstrates a registrant's concern for the well being of the businesses of Indiana farmers.

Sec. 3. (a) A registrant designated under section 2 of this chapter is entitled to use the following statement through January 31 of the year following the designation: "Designated an Indiana Farmer Friendly Company by the State of Indiana".

(b) The commissioner may adopt rules under IC 4-22-2 to regulate the use of the designation stated in subsection (a).

Sec. 4. A registrant designated under section 2 of this chapter is entitled to a full credit against the fees the registrant is required to pay under IC 15-9-2-6.

Chapter 7. Violations and Penalties

Sec. 1. The commissioner may impose the civil penalties described in section 2 of this chapter after a hearing is conducted under IC 4-21.5.

Sec. 2. The commissioner may impose the following civil penalties under section 1 of this chapter:

(1) The commissioner may impose the following civil penalties on a person required to register under IC 15-9-2-2 who fails to register in addition to requiring payment of the fees required by IC 15-9-2-3 and IC 15-9-2-6:

(A) A civil penalty of not more than ten thousand dollars ($10,000) as determined by the commissioner.

(B) An amount equal to ten percent (10%) of the fees the person is required to pay under IC 15-9-2-6.

(2) The commissioner may impose a civil penalty of not more than ten thousand dollars ($10,000) for each violation of the requirements of IC 15-9-3 found by the commissioner.

(3) The commissioner may impose a civil penalty of not more than one hundred thousand dollars ($100,000) on a person who uses the Indiana Farmer Friendly designation who:

(A) is not entitled to use the designation; or

(B) uses the designation in violation of the rules adopted under IC 15-9-6-3(b).

The commissioner may also provide that a registrant forfeits the registrant's right to use the designation.

Sec. 3. In determining the amount of a civil penalty to impose under section 2 of this chapter, the commissioner shall consider the following:

(1) Whether the person's violation was inadvertent or knowing.

(2) Whether the person gained a benefit from the violation.

(3) Whether the violation harmed an Indiana farmer.

(4) Other circumstances that the commissioner determines should be considered for the imposition of a just penalty.

Sec. 4. At the request of the commissioner, the attorney general shall file an action in a court with jurisdiction to collect a civil penalty imposed under section 2 of this chapter.".

Page 3, after line 11, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2002] **(a) As used in this SECTION, "commission" refers to the Indiana commission for agriculture and rural development established by IC 4-4-22-6.**

(b) As used in this SECTION, "commissioner" refers to the lieutenant governor, serving as the commissioner of agriculture under IC 4-4-3-2, or the lieutenant governor's designee.

(c) The commissioner shall take appropriate action to protect the designations described in IC 15-9-6, as added by this act, under trademark law or other appropriate intellectual property law, as the property of the state.

(d) If the commissioner determines that the state may not protect the designation as property of the state, the commission shall adopt a new designation that the state can protect as the property of the state. If the commission adopts a new designation, the following apply:

(1) The commissioner shall take appropriate action to protect the designation adopted by the commission under trademark law or other appropriate intellectual property law as the property of the state.

(2) Notwithstanding IC 15-9-6, as added by this act, the designation that shall be used under IC 15-9-6 is the designation adopted by the commission and not the designation described in IC 15-9-6.

(e) This SECTION expires July 1, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 381 as printed February 22, 2002.)

FRIEND

After discussion, Representative Friend withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 399

Pursuant to House Rule 143, the sponsor of Engrossed Senate Bill 399, Representative Kromkowski, granted consent to the cosponsor, Representative Mahern, to call the bill down for second reading. Representative Mahern called down Engrossed Senate Bill 399 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 401

Representative Cook called down Engrossed Senate Bill 401 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 401–1)

Mr. Speaker: I move that Engrossed Senate Bill 401 be amended to read as follows:

Page 6, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 13. IC 9-21-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A local authority may adopt by ordinance additional traffic regulations with respect to ~~streets, and~~ highways under the authority's jurisdiction. An ordinance adopted under this subsection may not conflict with or duplicate a statute.

(b) **After a request has been made at a public meeting or by certified mail to the legislative body (as defined in IC 36-1-2-9) from the property owner, a local authority may adopt by**

ordinance additional traffic regulations with respect to a private road within the authority's jurisdiction. The ordinance:

(1) must require a contractual agreement between the local authority and property owner of the private road, setting forth the terms and responsibilities of the additional traffic regulations;

(2) must require the contractual agreement required under subdivision (1) to be recorded after passage of the ordinance in the office of the recorder of the county in which the private road is located; and

(3) may not conflict with or duplicate state law.

(c) A fine assessed for a violation of a traffic ordinance adopted by a local authority may be deposited into the general fund of the appropriate political subdivision.

SECTION 14. IC 9-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A local authority, with respect to **private roads** ~~streets,~~ and highways under the authority's jurisdiction, **in accordance with section 2 of this chapter,** and within the reasonable exercise of the police power, may do the following:

(1) Regulate the standing or parking of vehicles.

(2) Regulate traffic by means of police officers or traffic control signals.

(3) Regulate or prohibit processions or assemblages on the highways.

(4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by this article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), or (a)(13) is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 15. IC 9-21-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Except when a different place is specifically referred to, this article applies ~~exclusively~~ to the operation of vehicles upon highways ~~including streets or~~ **and private** roads of a residential subdivision, regardless of who maintains
them.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 401 as printed February 22, 2002.)

STILWELL

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 405

Representative Welch called down Engrossed Senate Bill 405 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 405–1)

Mr. Speaker: I move that Engrossed Senate Bill 405 be amended to read as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 16-21-2-5, AS AMENDED BY P.L.162-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. **(a)** The governing board of the hospital is the supreme authority in the hospital and is responsible for the following:

(1) The management, operation, and control of the hospital.

(2) The appointment, reappointment, and assignment of privileges to members of the medical staff, with the advice and recommendations of the medical staff, consistent with the individual training, experience, and other qualifications of the medical staff.

(3) Establishing requirements for appointments to and continued service on the hospital's medical staff, consistent with the appointee's individual training, experience, and other qualifications, including the following requirements:

(A) Proof that a medical staff member has qualified as a health care provider under IC 16-18-2-163(a).

(B) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical care in the hospital setting.

(C) Standards of quality medical care that recognize the efficient and effective utilization of hospital resources, developed by the medical staff.

(4) Upon recommendation of the medical staff, establishing protocols within the requirements of this chapter and 410 IAC 15-1.2-1 for the admission, treatment, and care of patients with extended lengths of stay.

(b) The governing board of each hospital must have at least one (1) member who is a licensed physician.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 405 as printed February 22, 2002.)

T. BROWN

Representative C. Brown rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

Engrossed Senate Bill 407

Representative Welch called down Engrossed Senate Bill 407 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 407–3)

Mr. Speaker: I move that Engrossed Bill 407 be amended to read as follows:

Page 1, line 6, after "public" insert "**school**".

Page 1, delete lines 7 through 8, begin a new line block indented and insert:

"**(2) nonpublic school that is not located in a private home.**".

Page 1, line 9, delete "shall" and insert "**may**".

Page 1, line 11, delete ":".

Page 1, delete lines 12 through 13.

Page 1, line 14, delete "(2)".

Page 1, run in lines 11 through 14.

Page 2, line 4, delete ";" and insert "**, if the school is a public school or an accredited nonpublic school;**".

(Reference is to ESB 407 as printed February 15, 2002.)

WELCH

Motion prevailed.

HOUSE MOTION
(Amendment 407–4)

Mr. Speaker: I move that Engrossed Senate Bill 407 be amended to read as follows:

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"**Sec. 3. (a) The school air quality panel is established to assist the state department of health in carrying out this chapter.**

(b) The panel consists of the following members:

(1) A representative of the state department of health.

(2) A representative of the department of education.
(3) A member of the governing body of a school corporation, appointed by the state superintendent of public instruction.
(4) A representative of the school employee organization (as defined in IC 20-7.5-1-2) that has the greatest number of members in Indiana, appointed by the state superintendent of public instruction.
(5) A representative of a statewide parent organization, appointed by the state superintendent of public instruction.
(6) A physician who has experience in indoor air quality issues, appointed by the commissioner of the state department of health.
(7) An individual with training and experience in occupational safety and health, appointed by the commissioner of the department of labor.
(8) A mechanical engineer with experience in building ventilation system design, appointed by the governor.
(9) A building contractor with experience in air flow systems who is a member of a national association that specializes in air flow systems, appointed by the governor.
(10) A member of a labor organization whose members install, service, evaluate, and balance heating, ventilation, and air conditioning equipment, appointed by the governor.

(c) The state department of health shall provide administrative support for the panel.

(d) The panel shall:

(1) identify and make available to schools best operating practices for indoor air quality in schools; and

(2) assist the state department of health in developing plans to improve air quality conditions found in inspections under section 2 of this chapter.".

(Reference is to ESB 407 as printed February 15, 2002.)

L. LAWSON

Motion prevailed.

HOUSE MOTION
(Amendment 407–1)

Mr. Speaker: I move that Engrossed Senate Bill 407 be amended to read as follows:

Page 4, line 12, delete "IC 20-10.1-33 if the cost of compliance with the" and insert "**IC 20-10.1-33.**".

Page 4, delete line 13.

(Reference is to ESB 407 as printed February 15, 2002.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 426

Representative Dvorak called down Engrossed Senate Bill 426 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 426–1)

Mr. Speaker: I move that Engrossed Senate Bill 426 be amended to read as follows:

Page 5, line 2, after "jury" insert ".".

Page 5, line 2, strike "and proceed".

Page 5, strike line 3 and insert "**The court may:**

(1) sentence the defendant to life imprisonment without parole; or

(2) sentence the defendant to a term of years.

The court may impose a sentence of life imprisonment without parole only if the jury has returned a special verdict form unanimously finding beyond a reasonable doubt the presence of at least one (1) alleged aggravating factor.".

(Reference is to ESB 426 as printed February 22, 2002.)

DVORAK

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 459

Representative Avery called down Engrossed Senate Bill 459 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 459–2)

Mr. Speaker: I move that Engrossed Senate Bill 459 be amended to read as follows:

Page 2, line 31, delete "fund." and insert "**account.**".

Page 3, line 19, delete "appropriations made by the general assembly and".

Page 3, line 19, after "donations" insert "**made to assist the commission in carrying out this act**".

Page 3, delete lines 20 through 23.

Page 3, line 24, delete "(c)" and insert "**(b)**".

(Reference is to ESB 459 as printed February 22, 2002.)

AVERY

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 461

Representative Herrell called down Engrossed Senate Bill 461 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 461–2)

Mr. Speaker: I move that Engrossed Senate Bill 461 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 3. IC 13-11-2-233.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 233.5. For purposes of IC 13-20-2-9, "tract" has the meaning set forth in IC 6-1.1-1-22.5.**".

Page 3, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 5. IC 13-20-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) This section applies to a landfill for which an application for an original permit for construction or operation is:**

(1) filed after February 28, 2002;

(2) filed before March 1, 2002, but not granted or denied by the commissioner before March 1, 2002; or

(3) filed and granted by the commissioner before March 1, 2002, but for which an appeal of the commissioner's action in granting the permit is pending on March 1, 2002.

(b) The solid waste boundary of a landfill may not be located within one (1) mile of a public school classroom building that is served by a well as the primary source of drinking water. The measurement required by this subsection is made from the point on the building that is nearest to the solid waste boundary of the landfill.

(c) A public school classroom building that is served by a well as the primary source of drinking water may not be constructed within one (1) mile of the property line of a contiguous tract on which a landfill is located. The measurement required by this subsection is made from the point on the school building that is nearest to the property line of the landfill tract.

(d) The commissioner shall deny an application for an original permit for the construction or operation of a landfill if the commissioner finds that the proposed landfill does not comply with the requirements of this section.

(e) The solid waste management board may adopt rules under IC 4-22-2 to administer this section.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 461 as printed February 22, 2002.)

AYRES

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 481

Representative Dobis called down Engrossed Senate Bill 481 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 481–1)

Mr. Speaker: I move that Engrossed Senate Bill 481 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE UPON PASSAGE]".

Page 2, after line 26, begin a new paragraph and insert:

"SECTION 3. **An emergency is declared for this act.**".

(Reference is to ESB 481 as printed February 22, 2002.)

DOBIS

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 501

Representative Bauer called down Engrossed Senate Bill 501 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 501–1)

Mr. Speaker: I move that Engrossed Senate Bill 501 be amended to read as follows:

Page 5, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE UPON PASSAGE] **The board of trustees of the University of Southern Indiana may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5 and IC 23-13-18, for the library/classroom expansion/renovation, so long as the sum of principal costs of any bonds authorized by this act for the project, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed twenty-nine million dollars ($29,000,000). The project is eligible for fee replacement.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 501 as printed February 22, 2002.)

AVERY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 502

Representative Bauer called down Engrossed Senate Bill 502 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 502–1)

Mr. Speaker: I move that Engrossed Senate Bill 502 be amended to read as follows:

Page 10, delete lines 26 through 42.

Page 11, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) As used in this SECTION, "general reassessment" refers to the general reassessment of real property that is the basis under IC 6-1.1-4-4 for ad valorem property taxes and special assessments first due and payable in 2004.

(c) The effect resulting from the following of any increase or decrease in the assessed value of tangible property as compared to the assessed value of the tangible property for ad valorem property taxes and special assessments first due and payable in 2003 shall be phased in:

(1) The general reassessment.

(2) The application of 50 IAC 4.3.

(3) The application of any other rule of the department of local government finance for the assessment of tangible property.

(d) The phase in under subsection (c) shall be applied in equal increments with respect to ad valorem property taxes and special assessments first due and payable in 2004, 2005, and 2006.

(e) The department of local government finance shall adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement this SECTION. A temporary rule adopted under this subsection expires on the earliest of the following:

(1) The date that another temporary rule adopted under this subsection supersedes the prior temporary rule.

(2) The date that permanent rules adopted under IC 4-22-2 supersede the temporary rule.

(3) January 1, 2008.

(f) This SECTION expires January 1, 2008.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 502 as printed February 22, 2002.)

TURNER

Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 528

Representative C. Brown called down Engrossed Senate Bill 528 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 528–1)

Mr. Speaker: I move that Engrossed Senate Bill 528 be amended to read as follows:

Page 2, line 5, after "verification" insert "programs,".

Page 2, line 5, strike "and".

Page 2, strike line 6.

Page 2, line 7, strike "recent contractor agreement with the office's managed care contractor." and insert "**claims submission requirements, and medical utilization management policies and procedures as described in the managed care organization's provider manual and approved by the office.** ".

Page 2, line 29, strike "rates negotiated under".

Page 2 strike lines 30 through 34.

Page 2, line 35, strike "health care services program." and insert "**established Medicaid rates paid to Medicaid providers who are not contracted providers in the office's managed care services program, as revised periodically.**".

(Reference is to ESB 528 as printed February 22, 2002.)

MURPHY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 25

Representative GiaQuinta called down Engrossed Senate Bill 25 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 25–1)

Mr. Speaker: I move that Engrossed Senate Bill 25 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-12-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The trustees of Indiana University, the trustees of Purdue University, Indiana State University board of trustees, the University of Southern Indiana board of trustees, and the Ball State University board of trustees are authorized and empowered, from time to time, if the governing boards of these corporations find that a necessity exists, to erect, construct, reconstruct, extend, remodel, improve, complete, equip, furnish, operate, control and manage:

(1) dormitories and other housing facilities for single and married students and school personnel;

(2) food service facilities;

(3) student infirmaries and other health service facilities including revenue-producing hospital facilities serving the general public, together with parking facilities and other appurtenances in connection with any of the foregoing; ~~or~~

(4) parking facilities in connection with academic facilities; **or**

(5) medical research facilities associated with a school of medicine, if the facilities will generate revenue from state, federal, local, or private gifts, grants, contractual payments, or reimbursements in an amount that is reasonably expected to be at least equal to the annual debt service requirements of the bonds for the facility for each fiscal year that the bonds are outstanding;

at or in connection with Indiana University, Purdue University,

Indiana State University, the University of Southern Indiana, and Ball State University, for the purposes of the respective institutions. These corporations are also authorized and empowered to acquire, by purchase, lease, condemnation, gift or otherwise, any property, real or personal, that in the judgment of these corporations is necessary for the purposes set forth in this section. The corporations may improve and use any property acquired for the purposes set forth in this section.

(b) Title to all property so acquired, including the improvements located on the property, shall be taken and held by and in the name of the corporations. If the governing board of any of these corporations determines that real estate, the title to which is in the name of the state, for the use and benefit of the corporation or institution under its control, is reasonably required for any of the purposes set forth in this section, the real estate may, upon request in writing of the governing board of the corporation to the governor of the state and upon the approval of the governor, be conveyed by deed from the state to the corporation. The governor shall be authorized to execute and deliver the deed in the name of the state, signed on behalf of the state by the governor, attested by the auditor of state and with the seal of the state affixed to the deed.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 25 as printed February 22, 2002.)

COCHRAN

Motion prevailed.

HOUSE MOTION
(Amendment 25–2)

Mr. Speaker: I move that Engrossed Senate Bill 25 be amended to read as follows:

Page 3, after line 19, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2002] **The trustees of Indiana University are authorized to issue bonds under IC 20-12-8, subject to approvals required in IC 20-12-6 and IC 20-12-5.5, for the purpose of funding the costs of acquisition and renovation of the University Place Hotel on the Indianapolis Campus, and to acquire and renovate the hotel facility, so long as the principal costs of any bonds issued do not exceed thirty million dollars ($30,000,000). For purposes of this SECTION, "principal costs" of the bonds include all acquisition, renovation, installation, planning, and other related costs, but do not include additional costs incidental to the financing that may also be financed in addition thereto. Bonds issued under the authority of this SECTION are not entitled to fee replacement appropriations.** ".

(Reference is to ESB 25 as printed February 22, 2002.)

COCHRAN

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 59

Pursuant to House Rule 143, the sponsor of Engrossed Senate Bill 59, Representative Kromkowski, granted consent to the cosponsor, Representative Buell, to call the bill down for second reading. Representative Buell called down Engrossed Senate Bill 59 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 59–3)

Mr. Speaker: I move that Engrossed Senate Bill 59 be amended to read as follows:

Page 5, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 6. IC 5-10.2-4-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8.2. (a) Notwithstanding section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall file a written, irrevocable election with the board to continue or discontinue retirement benefits while the member holds the elected position.

(b) If a member:

(1) is elected or appointed to an elected position and:

(A) becomes at least fifty-five (55) years of age; and

(B) completes at least twenty (20) years of service; or

(2) is serving in any other position covered by this article and:

(A) becomes at least ~~seventy-five (75)~~ **seventy (70)** years of age; and

(B) completes at least twenty (20) years of service;

while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service. A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2. If the member elects to continue or begin receiving benefits:

(1) the member may continue to make contributions under IC 5-10.2-3-2 but is not required to do so; and

(2) the member waives the accrual of service credit and the right to any supplemental benefit from service in the position, except to the extent that the value of the accrual of additional service credit and any supplemental benefit exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) Except to the extent of the liability for any additional benefit accrued under subsection (c)(2), the employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

(e) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 59 as printed February 22, 2002.)

HASLER

Representative Munson rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question was on the motion of Representative Hasler (59–3). Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 60

Pursuant to House Rule 143, the sponsor of Engrossed Senate Bill 60, Representative Kromkowski, granted consent to the cosponsor, Representative Buell, to call the bill down for second reading. Representative Buell called down Engrossed Senate Bill 60 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 60–1)

Mr. Speaker: I move that Engrossed Senate Bill 60 be amended to read as follows:

Page 10, after line 36, begin a new paragraph and insert:

"**Sec. 17. (a) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a civil taxing unit for a calendar year to pay pension benefits under section 12(c)(1) of this chapter to the extent provided in subsection (b).**

(b) For purposes of determining the property tax levy limit imposed on a civil taxing unit under IC 6-1.1-18.5, the civil taxing unit's ad valorem property tax levy for a calendar year does not include an amount equal to the amounts paid by the civil taxing unit for pension benefits in that calendar year under section 12(c)(1) of this chapter, minus:

(1) the amount of pension relief distributions under

IC 5-10.3-11-4, IC 5-10.3-11-4.5, and IC 5-10.3-11-4.7 to be received by the civil taxing unit in that calendar year that is attributable to pension benefits paid under section 12(c)(1) of this chapter for that calendar year; and

(2) an amount equal to the percentage of the civil taxing unit's pension distributions that were relieved under IC 5-13-12-4 in the preceding calendar year, multiplied by the amount of pension benefits paid under section 12(c)(1) of this chapter in that calendar year.".

(Reference is to ESB 60 as printed February 22, 2002.)

BUELL

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 86

Representative Kruzan called down Engrossed Senate Bill 86 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 86–1)

Mr. Speaker: I move that Engrossed Senate Bill 86 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning animals and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 15-9 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

ARTICLE 9. PET STORE REGULATION

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Animal distributor" means a person who buys and sells animals at wholesale but does not sell animals as pets directly to individual consumers.

Sec. 3. "Board" refers to the Indiana state board of animal health established by IC 15-2.1-3-1.

Sec. 4. (a) "Pet store" means a place where:

(1) a dog;

(2) a cat;

(3) a rabbit;

(4) a rodent;

(5) a nonhuman primate;

(6) a bird;

(7) any other vertebrate animal; or

(8) any other animal customarily obtained as a pet in Indiana;

is bought, sold, offered for sale, exchanged, or offered for adoption.

(b) The term does not include the following:

(1) A store that sells or exchanges less than six (6) animals during a twelve (12) month period.

(2) A person that sells only the animals that the person has produced and raised.

(3) A veterinary hospital or clinic operated by a veterinarian licensed under IC 15-5-1.1.

(4) An animal shelter.

(5) A place where the sale of livestock (as defined in IC 15-2.1-2-27) is conducted.

(6) A place where the sale of poultry by a commercial breeder or distributor is conducted.

(7) A place where fish are the only animals sold.

(8) A place where the sale of an animal is conducted by:

(A) an animal distributor;

(B) a research facility;

(C) a circus; or

(D) a publicly or privately owned zoological park, petting zoo, or other facility;

that is licensed or registered by the United States Department of Agriculture under the federal Animal Welfare Act of 1970, 7 U.S.C. 2131 et seq., as amended.

(c) A person does not come within the definition set forth in subsection (a) by taking any action with respect to an animal that is authorized by a license or permit issued to the person by the department of natural resources.

Chapter 2. Duties of the Board

Sec. 1. The board has the powers necessary to fulfill its duties as prescribed in this article and may adopt rules under IC 4-22-2 that prescribe standards for pet stores that are necessary to carry out this article and through which pet stores, by meeting the standards, may satisfy IC 15-9-5-1.

Sec. 2. The board may do the following:

(1) Administer and enforce this article.

(2) Issue, suspend, and revoke licenses under this article.

(3) Subject to IC 15-9-3, investigate complaints concerning licensees or persons the board has reason to believe should be licensees, including complaints regarding the failure to comply with this article or the rules adopted under this article and the failure to take appropriate action under IC 15-9-8.

(4) Bring actions in the name of the state of Indiana in an appropriate court to enforce compliance with this article or the rules adopted under this article by restraining order or injunction.

(5) Hold public hearings under IC 15-2.1-19 on any matters for which a hearing is required under this article.

(6) Establish and fix the fees for the licensing and renewal of a license under this article.

(7) Prescribe the application forms to be furnished to all persons seeking to be licensed under this article.

(8) Prescribe the form and design of the license to be issued under this article.

(9) Conduct hearings and keep records of proceedings.

(10) Subpoena and bring before the board any person in Indiana and take testimony in the same manner as prescribed by law in civil proceedings in Indiana courts.

(11) Hire the staff necessary to carry out this article.

Chapter 3. General Provisions Concerning Licensing; Licensing Fund

Sec. 1. A person may not operate a pet store unless the person has a license to operate a pet store issued under this article.

Sec. 2. (a) A person who wishes to obtain a license issued under this article must complete a license application prescribed by the board and file the application with the board.

(b) An application for a license under this article must be completed in the manner prescribed by the board.

Sec. 3. The board may not issue a license to operate a pet store until the board has inspected the premises for compliance under this article.

Sec. 4. (a) A license issued under this article expires:

(1) two (2) years after the date of issuance; or

(2) on a common biennial renewal date for all licenses that is established by the board.

(b) The fee for a license issued under this article is two hundred dollars ($200). However, the fee for a license issued in the second year of a licensing cycle is one hundred dollars ($100).

(c) The board shall accept the following forms of payment of fees:

(1) Cash.

(2) A draft.

(3) A money order.

(4) A cashier's check.

(5) A certified or other personal check.

(d) If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the board may void the license for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

Sec. 5. (a) The pet store licensing fund is established to implement this article. The fund shall be administered by the board.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of license fees and civil penalties

collected under this article.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) The money in the fund is annually appropriated to the board for its use in carrying out this article.

Sec. 6. (a) The board or its employees may inspect any pet store and may enter upon any public or private property where any pet store is located during the store's regular business hours for the following purposes:

(1) Inspecting the property.

(2) Examining the animals.

(3) Conducting tests in regard to the presence of an infectious, a contagious, or a communicable disease of the animals and the possible cause and sources of any disease.

(4) Performing any other function authorized by this article.

(b) A conservation officer of the department of natural resources may inspect any pet store and may enter upon any public or private property where any pet store is located during the store's regular business hours for the following purposes:

(1) Inspecting the property.

(2) Examining the animals.

Sec. 7. The board shall investigate any:

(1) pet store;

(2) entity that the board considers may be operating as a pet store without a license;

(3) applicant for a license under this article; or

(4) licensee;

upon a written verified complaint by any person of a violation under this article that the board considers to have merit.

Sec. 8. (a) The board may order a licensee under this article to file with the board information concerning the business conduct of the licensee and the practices and management of the business of the licensee.

(b) The board may require that the reports and answers under subsection (a) be made under oath and filed within a reasonable period if the requirements are considered essential by the board.

Chapter 4. Renewal of a License

Sec. 1. (a) A person may renew a license by:

(1) completing a renewal application prescribed by the board; and

(2) paying a renewal fee;

not later than the expiration date of the license.

(b) If a person fails to timely submit a renewal application and pay a renewal fee, the board shall send the person notification of the delinquent application and fee. If the board does not receive the renewal application and fee within fifteen (15) days after the date notice was mailed to the person, the person's license becomes invalid without any further action by the board.

Sec. 2. (a) The board may renew a license if the license holder pays the renewal fee set by the board to renew the license before the license expires.

(b) Notwithstanding subsection (a), the board may refuse to renew the license for reasons set forth in IC 15-9-6.

Chapter 5. Conduct of a Pet Store Operator

Sec. 1. The board shall adopt standards that require a pet store operator to do the following:

(1) Maintain sanitary conditions of the premises.

(2) Insure proper ventilation of the premises.

(3) Provide adequate nutrition for all animals under the pet store operator's control.

(4) Provide humane care and treatment of all animals under the pet store operator's control.

(5) Take reasonable care to prevent disease in animals that are released for sale, trade, or adoption.

(6) Establish a relationship with at least one (1) veterinarian to provide routine veterinary care and advice concerning the animals under the control of the pet store operator.

Sec. 2. A person who operates a pet store may not import or cause to be imported into Indiana, or offer for sale or resale, a dog or cat less than eight (8) weeks of age.

Sec. 3. (a) A pet store operator shall provide to the purchaser the following information for every dog or cat available for sale, resale, trade, or adoption:

(1) The age and sex of the animal.

(2) The breed of the animal.

(3) A record of vaccination and veterinary care and treatment.

(4) A record of surgical sterilization or lack of surgical sterilization.

(b) A pet store operator shall keep records of the information required under subsection (a) and a record of the source of each animal that is purchased and sold for at least two (2) years after the date the animal is sold.

(c) The pet store operator shall allow the board access to the information described in subsection (b) upon request during normal business hours.

Sec. 4. A person who holds a license issued under this article shall display the license in a place clearly visible to any customer.

Chapter 6. Denial, Suspension, or Revocation of a License

Sec. 1. The board may refuse to issue or renew a license or may suspend or revoke a license for the following reasons:

(1) A material misstatement in the application for an original or renewal license under this article.

(2) A violation of this article or any rule adopted under this article.

(3) Aiding or abetting another person in the violation of this article or any rule adopted under this article.

(4) Making a substantial misrepresentation or false promise of a nature likely to influence, persuade, or induce in connection with the business of a licensee under this article.

(5) A conviction of a misdemeanor or felony under IC 35-46-3.

Sec. 2. (a) Upon revocation of a license, the licensee shall surrender the license to the board.

(b) If the licensee fails to surrender the license under subsection (a), the board shall seize, or cause to be seized, the license.

Sec. 3. (a) The board may:

(1) deny an application for a license or renewal of a license;

(2) suspend a license;

(3) revoke a license; or

(4) impose a civil penalty under IC 15-9-8-3;

by issuing a written notice to the applicant or licensee, stating the alleged violation, the board's action, and the opportunity for a hearing under IC 4-21.5.

(b) If the applicant or licensee does not request in writing a hearing before the board within fifteen (15) days after receiving notice under subsection (a), the applicant's or licensee's right to a hearing before the board is waived, and the notice becomes a final order under IC 4-21.5.

(c) If a hearing is requested under this section, the hearing shall be held under IC 4-21.5.

Sec. 4. The board may reinstate a license that has been suspended under this chapter if the licensee demonstrates to the board that the licensee is able to operate with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures designed to ensure compliance with this article.

Chapter 7. Operating a Pet Store Without a License

Sec. 1. (a) If the board determines that a person who is not licensed or exempt under this article is engaged in activities that require a license, the board may issue a cease and desist order and impose a civil penalty under IC 15-9-8-3 by issuing a written notice to the alleged violator, stating the alleged violation, the board's action, and the opportunity for a hearing under IC 4-21.5.

(b) If the alleged violator does not request in writing a hearing before the board within fifteen (15) days after receiving the

notice, the alleged violator's right to a hearing before the board is waived, and the notice becomes a final order under IC 4-21.5.

(c) If a hearing is requested under this section, the hearing shall be conducted under IC 4-21.5.

(d) The:

(1) attorney general;

(2) board; or

(3) prosecuting attorney of any county where a violation under this chapter occurs;

may file an action in the name of the state for an injunction or other order to enforce the board's order and this article.

(e) A cease and desist order issued under this section is enforceable in the circuit courts.

Chapter 8. Enforcement

Sec. 1. The board is responsible for the administration and enforcement of this article. The board may delegate its duties to the state veterinarian, except as provided in IC 15-2.1-3-13.5.

Sec. 2. IC 15-2.1-20-1 and IC 15-2.1-20-2 apply to this article.

Sec. 3. (a) If a person violates this article or any rule adopted by the board under this article, the board may do any of the following:

(1) Suspend the person's license.

(2) Revoke the person's license.

(3) Prohibit renewal of a license.

(4) Impose a civil penalty of not more than one thousand dollars ($1,000) for each violation.

(5) Obtain an injunction against a person who is engaging in a method, an act, or a practice that violates this article.

(6) Issue an order of compliance directing the person to take specified actions in order to comply with this article.

(b) The board may order a pet store closed to the public for up to seventy-two (72) hours to make corrections of deficiencies necessary to meet the requirements of this article. If a violation is not corrected, the board may suspend or revoke the operator's license.

Sec. 4. A person who knowingly or intentionally violates this article commits a Class B misdemeanor.

Sec. 5. If the board has reason to believe that a person has violated IC 35-46-3, the board may refer the matter to the appropriate law enforcement agency for action under IC 35-46-3.

Sec. 6. (a) A unit (as defined in IC 36-1-2-23) may adopt an ordinance concerning regulation of pet stores that includes more stringent or detailed requirements than those set forth in this article.

(b) A unit may not enforce an ordinance concerning the regulation of pet stores that contains requirements less stringent or detailed than those set forth in this article.

(c) A unit may not impose or collect a licensing or registration fee for the regulation of pet stores.".

Page 2, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2002] **(a) Notwithstanding IC 15-9-3, as added by this act, the operator of a pet store that is operating before July 1, 2002, may continue to operate the pet store without a license issued under IC 15-9-3, as added by this act, pending the processing of an application for a license under this SECTION.**

(b) The operator of a pet store described in subsection (a) may submit to the Indiana state board of animal health an application for a license to operate a pet store under IC 15-9-3, as added by this act. The operator must submit the application before September 1, 2002. The Indiana state board of animal health may allow an operator to submit an application on or after September 1, 2002, for good cause.

(c) The operator of a pet store described in subsection (a) shall cease operating the pet store if:

(1) the operator fails to submit an application within the time allowed by subsection (b); or

(2) the Indiana state board of animal health notifies the operator that the board has rejected an application submitted by the operator under this SECTION.

(d) This SECTION expires January 1, 2003.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 86 as printed February 22, 2002.)

CHENEY

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 173

Pursuant to House Rule 143, the sponsor of Engrossed Senate Bill 173, Representative Kromkowski, granted consent to the cosponsor, Representative Buell, to call the bill down for second reading. Representative Buell called down Engrossed Senate Bill 173 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed Senate Bill 193

Representative Grubb called down Engrossed Senate Bill 193 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 193–4)

Mr. Speaker: I move that Engrossed Senate Bill 193 be amended to read as follows:

Page 3, after line 4, begin a new paragraph and insert:

"**(f) Notwithstanding any other law, territory that is annexed under this section is not considered a part of the municipality for the purposes of annexing additional territory.**"

(Reference is to ESB 193 as printed February 22, 2002.)

MOCK

The Speaker ordered a division of the House and appointed Representatives Kruzan and Bosma to count the yeas and nays. Yeas 46, nays 40. Motion prevailed.

HOUSE MOTION
(Amendment 193–2)

Mr. Speaker: I move that Engrossed Senate Bill 193 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-4-3-4.1, AS AMENDED BY P.L.224-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.1. (a) This section applies to the following:

(1) A municipality having a population of:

(A) more than ~~ten thousand (10,000) but less than~~ fifteen thousand (15,000); ~~or~~

(B) more than ~~four thousand (4,000) but less than four thousand two hundred fifty (4,250);~~ **five thousand (5,000) but less than six thousand three hundred (6,300);**

(C) more than ten thousand (10,000) but less than fifteen thousand (15,000); or

(D) more than six thousand three hundred (6,300) but less than ten thousand (10,000);

located in a county having a population of more than ~~seventy-five thousand (75,000) but less than seventy-eight thousand (78,000)~~ **one hundred thousand (100,000) but less than one hundred five thousand (105,000).**

(2) A municipality having a population of more than ~~thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850)~~ **thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000)** located in a county having a population of more than ~~one hundred seven thousand (107,000) but less than one hundred eight thousand (108,000).~~ **one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).**

(3) A municipality that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(4) A town having a population of more than ~~five thousand (5,000) but less than six thousand (6,000)~~ **nine thousand (9,000) but less than thirty thousand (30,000)** located in a county having a population of more than ~~one hundred eight thousand (108,000) but less than one hundred eight thousand~~

~~nine hundred fifty (108,950).~~ **one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).**

(5) A municipality having a population of:

(A) more than three thousand (3,000); or

(B) more than one thousand (1,000) but less than one thousand two hundred (1,200);

located in a county with a population of more than fifty-five thousand (55,000) but less than sixty-five thousand (65,000).

(6) A town having a population of more than five thousand (5,000) but less than ten thousand (10,000), the majority of which is located in a county containing a consolidated city.

(b) Except as provided in subsection (c), the legislative body of a municipality ~~to which this section applies~~ may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) in the case of a municipality described in subsection (a)(1), has its entire area within the township within which the municipality is primarily located; and

(3) is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a municipality having a population of:

(1) more than ~~six thousand (6,000) but less than six thousand five hundred (6,500)~~ **five thousand (5,000) but less than eight thousand (8,000);** or

(2) more than ~~eight thousand seven hundred (8,700) but less than eight thousand nine hundred (8,900)~~ **nine thousand (9,000) but less than twelve thousand five hundred (12,500)** in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that is classified for zoning purposes as agriculture and remains exempt from the property tax liability while the property's zoning classification remains agriculture.

(e) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(Reference is to ESB 193 as printed February 22, 2002.)

WHETSTONE

[*Journal Clerk's note: Representatives Grubb, Cherry, and Murphy as the sponsor and cosponsors of Engrossed Senate Bill 193 filed written consent to the "strip and insert" motion of Representative Whetstone.*]

The Speaker ordered a division of the House and appointed Representatives Kruzan and Bosma to count the yeas and nays. Yeas 60, nays 35. Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 259

Representative Weinzapfel called down Engrossed Senate Bill 259 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 259–1)

Mr. Speaker: I move that Engrossed Senate Bill 259 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-206, AS AMENDED BY P.L.218-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 206. "Solid waste disposal facility", for purposes of ~~IC 13-19-3-8,~~ **IC 13-19-3-8.2, IC 13-19-6,** IC 13-20-4, and IC 13-20-6, means a facility at which solid waste is:

(1) deposited on or beneath the surface of the ground as an intended place of final location; or

(2) incinerated.".

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 4. IC 13-19-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 6. Dredging Operations in Lake County

Sec. 1. Material that is:

(1) dredged:

(A) from the:

(i) Grand Calumet River;

(ii) Indiana Harbor Ship Canal;

(iii) Lake George Canal; or

(iv) Calumet Canal;

in Lake County;

(B) by:

(i) the United States Army Corps of Engineers; or

(ii) a person designated or approved by the United States Army Corps of Engineers; and

(C) as part of the Indiana Harbor Ship Canal Maintenance Dredging and Disposal Project overseen by the United States Army Corps of Engineers; and

(2) disposed of in Indiana;

must be disposed of as provided in section 2 of this chapter.

Sec. 2. Material described in section 1 of this chapter must be disposed of at one (1) of the following:

(1) A hazardous waste disposal facility permitted under IC 13-22-3.

(2) A confined disposal facility or other solid waste disposal facility that meets, at a minimum, the:

(A) operation;

(B) closure; and

(C) postclosure;

requirements of a hazardous waste disposal facility permitted under IC 13-22-3.

Sec. 3. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 259 as printed February 22, 2002.)

AGUILERA

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

After discussion, Representative Aguilera withdrew the motion.

HOUSE MOTION
(Amendment 259–2)

Mr. Speaker: I move that Engrossed Senate Bill 259 be amended to read as follows:

Page 3, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the Indiana Harbor Ship Canal Maintenance Dredging and Disposal Project study committee established under this SECTION.**

(b) As used in this SECTION, "project" refers to the Indiana Harbor Ship Canal Maintenance Dredging and Disposal Project overseen by the United States Army Corps of Engineers.

(c) There is established the Indiana Harbor Ship Canal Maintenance Dredging and Disposal Project study committee.

(d) The committee consists of the following twelve (12) members:

(1) Two (2) members appointed by the speaker of the house of representatives:

(A) who are members of the house of representatives;

(B) who are not affiliated with the same political party; and

(C) at least one (1) of whom represents a house district that has territory that is directly affected by the project.

(2) Two (2) members appointed by the president pro tempore of the senate:

(A) who are members of the senate;

(B) who are not affiliated with the same political party; and

(C) at least one (1) of whom represents a senate district that has territory that is directly affected by the project.

(3) The following eight (8) members appointed by the governor:

(A) The mayor of East Chicago.

(B) One (1) member of the East Chicago city council.

(C) One (1) representative of the department of environmental management.

(D) One (1) representative of a nonprofit environmental organization.

(E) Four (4) residents of East Chicago.

(e) If the governor does not make an appointment under subsection (d)(3) before May 1, 2002, the chairman of the legislative council shall make the appointment.

(f) An appointed member of the committee serves at the pleasure of the appointing authority identified in subsection (d). The appointing authority shall fill any vacancy on the committee within forty-five (45) days.

(g) The chairman of the legislative council shall designate the chairperson of the committee from the membership of the committee.

(h) The expenses of the committee shall be paid from appropriations made to the legislative council or the legislative services agency.

(i) The committee shall do the following:

(1) Study and assess the project.

(2) Study the viability of the site the United States Army Corps of Engineers has selected for the project's Confined Disposal Facility.

(3) Study the viability of alternative sites for the project's Confined Disposal Facility.

(4) Submit its final report before January 1, 2003, to the following:

(A) The governor.

(B) The executive director of the legislative services agency.

(C) The commissioner of the department of environmental management.

The committee shall assure that the final report is made readily available to the residents of East Chicago, businesses and industry in East Chicago, and the general public.

(j) The legislative services agency shall provide staff support to the committee.

(k) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) Each member of the committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(m) Each member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or to the legislative services agency.

(n) The affirmative votes of a majority of the members of the committee are required for the committee to take action on any measure, including the final report.

(o) Except as specified in this SECTION, the committee shall operate under the rules of the legislative council.

(p) The department of environmental management may not issue any permits associated with the project until the committee issues its final report under this SECTION.

(q) This SECTION expires January 1, 2003.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 259 as printed February 22, 2002.)

AGUILERA

Motion prevailed. The bill was ordered engrossed.

Engrossed Senate Bill 19

Representative Bauer called down Engrossed Senate Bill 19 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 19–5)

Mr. Speaker: I move that Engrossed Senate Bill 19 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 15.

Page 16, delete lines 1 through 40.

Renumber all SECTIONS consecutively.

(Reference is to ESB 19 as printed February 22, 2002.)

BAUER

Motion prevailed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 26, 2002 at 10:00 a.m.

STEVENSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 10.

STURTZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 97.

C. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as cosponsor of Engrossed Senate Bill 100.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 149.

SUMMERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kruse be added as cosponsor of Engrossed Senate Bill 180.

STURTZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 190.

LYTLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kruse be added as cosponsor of Engrossed Senate Bill 206.

MOSES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 214.

TORR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 217.

LYTLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 233.

BAUER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 260.

AGUILERA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 293.

WHETSTONE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 344.

AGUILERA

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representative Goodin be added as cosponsor of Engrossed Senate Bill 363.

MOSES

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Turner and Goodin be added as cosponsors of Engrossed Senate Bill 376.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 422.

FRY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pelath be added as cosponsor of Engrossed Senate Bill 458.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as cosponsor of Engrossed Senate Bill 509.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives C. Brown, Becker, and Scholer be added as cosponsors of Engrossed Senate Bill 518.

CROSBY

Motion prevailed.

On the motion of Representative Kruzan the House adjourned at 6:40 p.m., this twenty-fifth day of February, 2002, until Tuesday, February 26, 2002, at 10:00 a.m.

JOHN R. GREGG
Speaker of the House of Representatives

LEE ANN SMITH
Principal Clerk of the House of Representatives